

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-06-
000760-153

("Class Action")
SUPERIOR COURT

MARCEL DURAND

Petitioner

-vs-

ATTORNEY GENERAL OF QUEBEC,

ATTORNEY GENERAL OF CANADA, ROYAL
SOCIETY OF CANADA, AIR CANADA [...]

THE CITY OF SAINTE-ANNE-DES- LACS,
SOCIETE DE TRANSPORT DE MONTREAL,

HYDRO-QUEBEC,

ROGERS, BELL, VIDEOTRON, TELUS,
SILICON LABS, c/o Electro Source, Inc. 6600
Trans Continental HW #420, Pointe Claire, QC
H9R 4S2;, MATTEL/FISHER PRICE CANADA,
Mattel Canada Inc., 6155 Freemont Blvd.,
Mississauga, ON L5R 3W2,

G.E. CANADA, 2425 Pitfield, St. Laurent, QC,
H4S 1W8; SONY CORP. 115 Gordon Baker Rd.,
Toronto, ON, M2H 3R6;, TESLA MOTORS, Hotel
Le Crystal, 1100 rue de la Montagne, Montréal, QC
H3G 0A1; GENERAL MOTORS OF CANADA,
1908 Colonel Sam Drive, Oshawa, ON L1H 8P7;
FCA CANADA, 1 Riverside Dr. W, Windsor, ON,
N9A 5K3; VOLKSWAGEN CANADA,

APPLE CANADA, Corporate Office, 120 Bremner
Blve., #1600, Toronto, ON M5J 0A8; FACEBOOK,
14, 2300 Yonge St., Toronto, ON, M4P 1E4;
SAMSUNG ELECTRONICS CANADA, Corporate
Office, 2050 Derry Rd., W., Mississauga, ON L5N

0B9; I.B.M. CANADA, 1360 Boul. René-Lévesque, Montreal, QC, H3G 2W6; TOSHIBA, XEROX, PANASONIC CANADA, 5770 Ambler Dr., Mississauga, ON L4W 2T3; HEWLETT PACKARD, CISCO SYSTEMS, 88 Queens Quay West, Suite 2700, Toronto, ON M5J 0B8; SIEMENS CANADA, TEXAS INSTRUMENTS CANADA, 150 John St., Toronto, ON, M5V 3E3; HITACHI, LENOVO (CANADA) Inc. Corporate Office, 55 Idema Rd., Markham, ON, L3R 1B1; ., L.G. [...] ERICSSON CANADA, 8400 Blvd., Décarie, Mont-Royal, QC., H4P 2N2; PHILIPS CANADA., Corporate Campus, 281 Hillmount Rd. Markham, ON L6C 2S3; MICROSOFT CANADA, 2000 McGill College Ave., Suite 550, Montreal, QC H3A 3H3; ARRIS CANADA

WHIRLPOOL CANADA L.P., OSRAM SYLVANIA, Corporate Office, 2001 Drew Rd., Mississauga, ON L5S 1S4; [...] PANASONIC CANADA, HONEYWELL INTERNATIONAL, 2100-52 Ave., Montreal, QC, H8T 2Y5; MARRIOTT INTERNATIONAL, STARBUCKS, 5140 Yonge St., Suite 1205, Toronto, ON, M2N 6L7; 3G CAPITAL, Restaurant Brands International Limited Partnership, 874 Sinclair Rd., Oaskville, ON. Partnership, 874 Sinclair Rd., Oaskville, ON.

and

ALPHABET (GOOGLE) 1253 McGill College #150, Montréal, QC, H3B 2Y5;

Respondents

**RE-RE-AMENDED MOTION FOR AUTHORIZATION TO INSTITUTE
A COLLECTIVE ACTION AND TO OBTAIN THE STATUS OF REPRESENTATIVE**
(Articles 571 ff., C.C.P.)

PETITIONER RESPECTFULLY SUBMITS:

1. Petitioner Marcel Durand wishes to institute a class action on behalf of the natural persons forming part of the class hereinafter described, of which the Petitioner is a member:

All persons who reside, work, study or own property in any part of the Province of Quebec, as well as flora, fauna, pets and animals that are exposed to a level in excess of one milliGauss of magnetic field, 0.6 V/m of electric field, [...] or 0.1 microWatt per square centimeter of microwave power density for general populations in uncontrolled environments; or 0.3 milliGauss of magnetic field, 0.2 V/m of electric field, [...] or 0.01 microWatt per square centimeter of microwave power density for sleeping environments or for sensitive individuals (children, pregnant women or persons who are electromagnetic hypersensitive) from any one or any combination of *anthropogenic* the above-listed electromagnetic field (EMF) sources, who suffered moral, physical, psychological and/or genetic damages as a result EMF pollution. Pursuant to the precautionary principle, those born, not of the age of majority, are nonetheless claiming as class members given the pervasive, escalating and cumulative effects¹ of EMF pollution.

2. The facts on which the Petitioner's personal claims against the Respondents are based are:
 - A. Petitioner lives in Sainte-Anne-des-Lacs, at 5 chemin des Ormes, and has a workshop located within ten (10) meters of a high tension Hydro Quebec distribution line² and 494 meters from both a recently installed mobile cellular base station tower³, and a municipal radio transceiver mounted on a 15-meter mast behind Sainte-Anne-des-Lac's City Hall. He is exposed to $0.9 \mu\text{W}/\text{cm}^2$, which exceeds the proposed standard of $0.1 \mu\text{W}/\text{cm}^2$ for general uncontrolled environments as well as $0.01 \mu\text{W}/\text{cm}^2$; the standard for EHS individuals;

¹ [...]

The term "cumulative effects" is meant in the largest sense of the word, including exposures over time as well as exposures from multiple and varied EMF sources. It refers to the entire gamut of damages caused by EMF and its raison d'être.

² The distribution Hydro line also emits microwave emissions about 100 times more powerful than the background radio-frequency and microwave power density levels.

³ [...] Bell, Rogers and Fido all have registered transmitters on the tower.

- B. Directly adjacent to the family home, are 7 (seven) “smart meters” (all within 100 meters of his residence), and inside the family residence, phone lines, a Toshiba computer, Arris modem, printer, Sylvania lighting with incandescent light bulbs, a Beaumont (General Electric) toaster (4 slices), Frigidaire refrigerator, Samsung television, Sony videocassette recorder [...];
- C. On [...] April 18, 2015, Petitioner sent Notices of suit to the City of Sainte-Anne-des-Lacs, Bell Canada, and Rogers, [...] those Notices produced as **Exhibits R-1A, R1-B and R1-C**, respectively;
- D. On October 28, 2013, Petitioner sent Notice [...] of suit to Hydro-Quebec, that Notice produced as **Exhibit R-2**;
- E. The above-named Respondents, who received Notices sent by Petitioner, contained in **Exhibits R-1A, R1-B, R1-C and R-2**, failed to ensure that they complied with their legal obligations as set out in detail below, and further failed to stop or curtail the EMF pollution alleged herein;
- F. The Notice contained in **Exhibit R-1A** requested details concerning EMF and insurance coverage for same. Nonetheless, there has been no abatement or reduction in EMF pollution since the Notice was received. Rather, ambient EMF has significantly increased, posing a health risk to Petitioner as well as to other nearby residents;
- G. [...] In its Reply to said Notice, **Exhibit R- 1A**, the City of Sainte-Anne-des-Lacs wrote a letter dated April 23, 2015, saying they would forward the complaint to Rogers and the City’s insurer, which letter is produced as **Exhibit R-3**;
- H. The persistent EMF pollution to which Petitioner has been actively exposed, in particular since Autumn 2013, when smart meters were installed around the City of Sainte-Anne-des-Lacs, forms part of a pattern of EMF proliferation, in particular in urban settings and where persons or animals are in close proximity to one or a number of EMF sources, such that cumulative and interactive (between many possible frequency bands) EMF exceed power density guidelines as they do for a significant number of Quebecers. EMF levels must be reduced to less than 1 milliGauss (mG) of low frequency magnetic field, less than 0.6 Volt/metre of low frequency electric field, and less than 0.1 microWatt per square centimeter of microwave exposure (RF) for the general population in uncontrolled environments; and reduced to less than 0.3 milliGauss (mG) of low frequency magnetic field, less than 0.2 Volt/metre of low frequency electric field, and less than 0.01 microWatt per square centimeter of microwave exposure (RF) for sensitive individuals (a

child, a pregnant woman and her fetus or one who is electromagnetically sensitive), and for sleeping environments[...] as further evidenced by:

- i) a letter from Quebec Health Ministry's National Director of Public Health, Dr. Horacio Arruda, M.D., dated April 15, 2015, declaring Minister Barrette's official position that EHS symptoms cannot in any way be related to Hydro Quebec smart meters and further instructing doctors to not find a causal relationship between EMF and any health problems and denying all liability for EMF, produced as **Exhibit R-4** which letter indicates the fault and negligence of the Quebec government.;
- ii) Evaluation of the Potential Carcinogenicity of Electromagnetic Fields (E.P.A. Draft October 1990) produced as **Exhibit R-5**, May 19, 1999 letter from William T. Allaben, Ph. D of the U.S. Food and Drug Administration Jefferson Laboratories to Dr. Errol Zeigler of Chemical Nomination and Selection, National Toxicology Program, National Institute for Environmental Health Services, produced as **Exhibit R-6**, and Report of Partial Findings from the National Toxicology Program Carcinogenesis Studies of Cell Phone Radiofrequency in Hsd: Sprague Dawley SD rats (Draft May 19, 2016) produced as **Exhibit R-7**;
- iii) EMF measurements in excess of the maximum levels herein stipulated, as indicated in the Survey reports prepared by Full Spectrum Measures, produced as **Exhibit R33 to R-35**;
- iv) names and addresses of 1,287 complainants in a petition concerning excess EMF pollution, produced as **Exhibit R-8, en liasse**;

I. [...]

J. Petitioner has suffered numerous and varied damages as a result of cumulative EMF exposure created by, *inter alia*, the operation of various machines, Hydro and telephone lines and towers, Wi-Fi, Arris Canada modem and router equipment, electronic ballast lighting, automobiles, restaurants and hotels providing Wi-Fi access, the Montreal subway, as well as by the other electric, transmission, and electronic sources [...] ⁴.

⁴ Electromagnetic hash [...] (persistent, ubiquitous and significant EMF) represents a significant concern throughout Québec, [...] including remotely-populated zones. [...] Anthropogenic EMF is measurable throughout Quebec [...] attributable to technologies and infrastructures ranging from the low frequency power distribution grid through to high frequency mobile telecommunications networks. Not isolated systems, EMF from one system may couple onto an adjacent network compounding health effects, particularly for electro-sensitive individuals. Systems producing EMF

These damages can be summarized, without limitation and under strict reserve of future addition, amendment and modification, as follows:

- (i) he has suffered physical discomfort from excessive EMF levels which have exceeded acceptable thresholds during the night as well as day, as [...] indicated, in part, by the medical prescription dated October 2, 2013, issued by Sylvie Morin, M.D. which prescription is produced as **Exhibit R-9**;
- (ii) he has suffered physical discomfort including a general feeling of fatigue, inability to work as he used to, inability to heal properly and susceptibility to infection caused by stray EMF pollution;
- (iii) he has suffered substantial interference in the ability to work or carry out his normal activities, both at night and during the day, as a direct result of the excessive EMF levels, with such inconvenience and interference including, but not limited to, the inability to sleep and the inability to make a modest living;
- (iv) he has suffered substantial interference with his ability to function effectively and safely during the day, as a structural carpenter, due to the fact that excessive EMF levels deprived him of the ability to sleep restfully, or in some cases, at all; such interference caused him to be extremely tired in ill-health, diagnosed with chronic Lymphocytic Leukemia as more fully appears from his medical file as concerns EMF exposure, produced as **Exhibit R-10 en liasse**, and not alert as is needed to function safely in his work, which involves air compressing hammers;
- (v) he found it absolutely necessary to make numerous adjustments in order to attempt to mitigate the numerous inconveniences caused by the EMF exposure including, but not limited to, a Faraday cage, shielding of the house, and finding alternate sleeping accommodations;
- (vi) he has suffered psychological stress and harm, as well as decreased productivity in his daily chores and tasks as well as in his occupation, as a result of the disruption to his daily routine and sleep patterns caused by the excessive EMF exposure;

include power distribution [...] lines (residential 240V through to 735 kV transmission lines), wirelessly networked computer systems in industry, institutions and business including public spaces like shopping centres; ubiquitous smart meters with highly pulsed microwave transmissions; mechanical infrastructures such as local and regional pipelines [...] often comprising energized anti-corrosion transmitting devices [...]; widespread [...] communication networks (WiFi, NAN, WAN) including dedicated emergency [...] and security service [...] digital communications networks [...]; transportation support communications ([...]civil and military radar, maritime installations, air traffic infrastructure, etc.); and [...] kilohertz-ballast-excited [...]lighting fixtures [...].

- (vii) he suffered extreme psychological and physical stress as well as decreased productivity as a result of disruption to his sleep and daily routine as a result of this EMF exposure, and reserves his right to claim in more detail of the long term effects of that EMF exposure, ill-health, sadness and stress;
- (viii) he suffered substantial inconvenience from EMF exposure created by the operation of a variety of EMF sources in near proximity to him, such EMF being transmitted on a continuous basis as well as sporadically, in both the exterior and interior of his dwelling; as well as loss of the use of his workshop for over eight (8) years, thus eliminating the peaceful enjoyment of that part of his premises;
- (ix) he suffers from fear and anxiety that his health and well-being relating to EMF pollution have not been protected and he consequently invokes the precautionary principle as being absolutely necessary to protect himself, class members and flora and fauna from Non-ionizing Electromagnetic Field Exposure and inadequate non-ionizing EMF international guidelines and in that regard endorses the position of His Excellency Ban Ki-moon, Secretary General of the United Nations and 223 published and peer reviewed EMF scientists from 41 countries that have signed the EMF Scientists Appeal, produced as **Exhibit R-11**;
- (x) his property, the flora and fauna living there on and in close proximity thereto, have been adversely impacted by the cumulative EMF including, but not limited to (a) trees on his property have been burned, killed or damaged by EMF, as appears from the photographs attached to the Durand survey reports, contained in **Exhibit R-33**; (b) the trees on his neighbours property burst into flames and burned as a result of Hydro Quebec power lines; (c) Canada geese, wasps and deer which used to visit his property or were found in close proximity thereto are less evident, if at all; (d) the resale value of his property has been diminished due to injurious affectation, including but not limited to the loss of the use of his workshop;
- (xi) he is the victim of extensive breaches of his right to life, liberty and security of person, privacy breaches as well as the threat of additional privacy breaches as a result of installed and emerging smart devices that log and wirelessly transmit information about usage patterns and activities; collectively known as the Internet of Things ("IoT")⁵. As smart meter emissions, in addition to the EMF pollution to

⁵ Installed and emerging smart devices that log and wirelessly transmit information about usage patterns and activities, collectively known as the Internet of Things.

which he is and has been exposed, will clearly aggravate his situation and cause further health damage, Petitioner contends that the installation of a smart meter would be a flagrant breach of his *Charter* rights, as is clearly indicated in the Durand survey reports produced as **Exhibit R-33**.

- (xii) he wants no “smart meter” (RF emitting meter) and wishes to never have one, but was threatened by phone on Saturday, March 1, 2014 at 8:30 in the morning by a representative of Cap-Gemini, who insisted aggressively that Petitioner must accept installation of a smart meter in his home or suffer the consequences of the law, all of which was perceived by Petitioner as intimidation and harassment, as described in Petitioner’s complaint to the Régie de l’énergie made on March 8, 2014, which is produced as **Exhibit R-29**.⁶ Petitioner bases his refusal to accept installation of a smart meter on the grounds that he believes that the information produced by Hydro Quebec, the Quebec Government, the Federal government and the Royal Society of Canada to the effect that there are no health risks associated with smart meters is patently false, produced in bad faith and an abuse of power, for which Section 24 *Charter* damages are due;
- (xiii) he suffers from serious concerns about his right to “Privacy”, included in his right to Liberty, and believes that both have been breached:

As concerns privacy, Petitioner contends that the Internet of Things (“IOT”) is a digital police state or “corporatocracy”, operating above the law and the *Charters*,

In *Godbout vs Longueuil* [1997] 3 S.C.R. 844 concerning the *Quebec Charter* Mr. Justice La Forest held at para. 66 that the right to liberty protects “an irreducible sphere of personal autonomy wherein individuals may make inherently private choices free from state interference”. The home is “fundamentally or inherently personal” and within the narrow class of decisions deserving of constitutional protection”, at para 68 (Cited in Davis at para. 81;

Security of Person: In *Carter v. Canada* 2015 S.C.C. 5, The Court wrote, at para. 64

[64] . . . Security of the person encompasses “a notion of personal autonomy involving . . . control over one’s bodily integrity free from state interference” [citations omitted] and it is engaged by state interference with an individual’s physical or psychological integrity, including any state action that causes physical or serious psychological suffering [as cited in Davis at para. 85].

Right to Life: *Morgentaler 2* [1988] 1 S.C.R. 76, and *Chaoulli vs Quebec* [2005] 1 S.C.R. 791 **held that unnecessary pain and stress** constitutes a breach of the right to security of person as well as the right to life since risk of death was sometimes increased. All Supreme Court Justices found a breach of the *Quebec Charter*.

⁶ Petitioner is also in possession of, and will produce at a later time, approximately 400 letters similar in content to **Exhibit R-29**, in which clients of Hydro-Quebec complain of intimidation, harassment, breaches of privacy and breaches of *Quebec Charter* rights.

through unauthorized monitoring of (spying upon) Civil Society, all of which has removed a fundamental safeguard of democracy.

As concerns the application of Section 7 of the Canadian Charter:

The privacy breaches of various Defendants contravene the provisions of Articles 35 to 41 of the *Civil Code of Quebec*. Class members are therefore entitled, pursuant to Art. 41 C.C.Q., that this Honourable Court examine all data collection by Defendants, in particular at home, its legality, whether it constitutes a flagrant and continuous breach of class members' privacy rights and, should the Court allow it to continue, the conditions and restrictions of such collection and dissemination in a manner consistent with the *Civil Code of Quebec* as well as *An Act respecting the protection of personal information in the private sector*, R.S.Q., c. P-39.1

- (xiv) he seeks injunctive relief on his own behalf and on behalf of the class:
- a. Medical monitoring for Petitioner and all Affiants, at Defendants expense;
 - b. EMF monitoring in areas of particularly high intensity including periodic measurements/assessments within relevant distance of anticipated important emission sources (Power distribution substations, high voltage transmission lines, medium voltage distribution lines, mobile cellular base stations, digital communications transmitters and the like) and within a specific radius of expected sensitive populations (schools, hospitals, nursing homes, etc). Monitoring should include ambient ELF through LF Magnetic, ELF through LF electric, MW/RF Power, grounding quality and dirty electricity;
 - c. Production of all relevant data from Defendants who manufacture, operate or authorize the operation of any EMF producing devices or objects regarding Magnetic, Electric and RF Power assessments relevant to users. This is in contact with body for wearable devices; 1 – 3 ft. for appliances, computers and similar equipment; tens to hundreds of meters for power distribution lines (farther for higher power infrastructures); 50 m to 2 km for wireless digital transmission devices. In the case of permanently installed, site-specific infrastructure or networks, data should include any assessment (by measurement, modeling or otherwise by prediction) generated in the course of proposing, planning, implementing, commissioning or inspecting said infrastructure or networks. Absent previously available data, Defendants shall collect and produce by means reasonably available said relevant data (EMF data may be collected employing existing infrastructures such as power distribution

monitoring equipment or cellular network equipment or be employing networked consumer devices deployed throughout the region. Existing or new application software may be employed to automate said data collection/collation/production).

3. The facts giving rise to personal claims by each of the members of the class against the Respondents are the same as those which justify the Petitioner's individual recourse, as is made evident through the following documents:
 - A. The affidavits of Hélène Fontaine, Louise Martin, Evelyn and Myles Mahon, Dominique Brillon, Katya Heppel, [...] Francoise Dupont, Diane Pelletier, and Carole Heafey, class members and who are exposed to excessive and harmful EMF sources transmitted by the Respondents, those Affidavits produced as **Exhibits R-8, R-9, R-12 to R-17, and R-19** [...], which Affidavits and attachments thereto are incorporated by reference into this Motion;
 - B. EMF Survey Reports by Full Spectrum Measures for the above-named Affiants that apply the Methodology presented in **Appendix 2** (also presented in **Exhibit R-18**),⁷ a Survey concerning accelerated corrosion of infrastructure caused by exposure to EMF, a Survey of recent model automobiles, a Survey re Berri-UQAM subway and another concerning Trudeau Airport will identify and quantify, consistent with Petitioner's proposed Methodology, the EMF pollution emitted by source, and will be produced once completed;
 - C. A study by Dr. David Carpenter documenting adverse health effects resulting from exposure to both low frequency and radiofrequency electromagnetic radiation, and especially the electromagnetic radiation that is associated with exposure to that coming from smart meters is produced as **Exhibit R-21**;
 - D. Studies of EMF effects on flora and fauna, and on humans, prepared by Dr. Magda Havas, are produced *en liasse* as **Exhibit R-22** as well as the Report of Dr. Karl Maret concerning smart meter and other EMF sources files in support of Davis vs B.C. Hydro, produced as **Exhibit R-23**;
 - E. A copy of a petition to the City of Sainte-Anne-des-Lacs, dated from [...] June to September 2012, signed by approximately 800 [...] City residents [...] filed by Elaine Reid, expressing opposition to the installation of Smart Meters and cell phone towers within one kilometer distance of the City of Sainte-Anne-des-Lacs will, when received,

⁷ The survey report for affiants Evelyn and Myles Mahon is [...] produced as **Exhibit R-34**/.../ to follow.

be produced[...], Sainte-Anne-des-Lacs has to date refused to provide the document as requested;

- F. Farmers are adversely affected by stray voltage such that their livestock become stressed, aggressive, pile, suffer from increased mortality leading to business loss for farmers, loss in property value, loss of respect and stress, as indicated in the Affidavit of Helene Fontaine, produced as **Exhibit R-8**;
 - G. Petitioner, Marcel Durand, has surveyed the Affiants concerning their vehicle, electric metering, exposure to involuntary restaurant or Cafe wifi and use of particularly harmful consumer appliances such as hair dryer and electric tooth brush, a table of the results is produced as **Exhibit R-42**;
4. The composition of the class makes the application of articles 59 or 67 of the *Code of Civil Procedure* difficult or impractical because:
- A. The number of physical persons affected, at least 249,783 (that being 3% of the population of Quebec) and likely as many as 390,000 (given that as a result of the intentional and bad faith actions of many of the Respondents, the three (3) year prescription limitation does not apply), makes it impossible for these persons to meet together and negotiate a specific mandate in virtue of which they might name a mandatary, or act as plaintiffs together in the same case, as contemplated by Arts. 59 or 67 *C.C.P.* as well as the fact that some of them are under the age of 18;⁸
 - B. It would be highly impracticable if not entirely impossible for each of the persons herein identified as class members to pursue an individual action;
 - C. All the members of the class are affected in the same or a very similar manner, although to different degrees, by the behavior of the Respondents and their interests will be better protected in a class action where the judge will have broad powers to protect the rights of absent parties than they would be if a few of these parties took individual actions;
 - D. Contrarily, class action proceedings are the most effective, efficient and appropriate legal proceedings available to ensure that each of the Class members' rights are duly protected

⁸ Petitioner reserves his right to vary the percentage of Quebecers he represents as there is credible evidence suggesting as much as fifteen percent of the Quebec population will be seriously affected by EMF pollution.

and preserved both now and in the future, in particular as concerns environmental matters;⁹

- E. Moreover, due to the significant experts' costs associated with the litigation of this matter, it is in the best interests of each of the members of the Class, and of justice, that the institution of a class action be authorized.
5. The identical, similar or related questions of law or fact between each member of the class and the Respondents [...] which Petitioners wish to have decided by the class action are:
- A. The inconvenience, discomfort, stress, economic and health problems that were suffered by each of the members of the class were caused by/or created as a result of excessive EMF exposure;
 - B. The EMF emissions contravene sections 19.1, 20, 90, 91, 92 and 94 and following of *The Environmental Quality Act* ("the E.Q.A.");
 - C. Whether the troublesome emissions described herein contravene art. 20 *in fine E.Q.A.* since they "*porte atteinte au confort de l'être humain*";
 - D. These EMF emissions exceed the standard of one milliGauss of magnetic field, 0.6 V/m of electric field, or [...] 0.1 microWatt per square centimeter of microwave power density for general populations in uncontrolled environments; or 0.3 milliGauss of magnetic field, 0.2 V/m of electric field, or [...] 0.01 microWatt per square centimeter of microwave power density for sleeping environments or sensitive individuals (children, pregnant women or the electromagnetic hypersensitive) and for pets and animals;
 - E. The EMF emissions constitute "contaminants" within the meaning of Art. 1(5) of the E.Q.A. and further contravene Arts. 6.01, 7.01, 7.02, 7.04, 7.05, 7.06, 7.08, 7.09 and must be statutorily recognized as such;
 - F. The EMF emissions constitute a nuisance within the meaning of Article 976 C.C.Q. as they exceed that which is reasonable and tolerable in a residential environment;
 - G. These emissions constitute an abuse of right within the meaning of Articles 6 and 7 C.C.Q. as exercised in bad faith, with the intent to injure another or exercised unreasonably;

⁹ *La Baie vs Alcan*, Quebec Court of Appeal, stating that class actions suits are by far the most appropriate manner of litigating environmental claims given the large number of victims and the exceptional cost of such litigation.

- H. Whether the emissions emitted by certain Respondents including Hydro-Québec and the tower emitters complained of constitute neighbourhood annoyance beyond the normal such as to trigger the provision of Art. 976 the Quebec Civil Code and, additionally if those emissions constitute a fault, were intentional and whether the governmental Respondents were complicit therein, such that punitive, exemplary and treble damages are warranted;¹⁰

Respondents including the Provincial and Federal governments:

(i) hid information concerning EMF pollution and its effects, which caused prejudice to those subjected to EMF pollution;

(ii) willfully and intentionally caused prejudice to the Quebec population, its flora and fauna, children, pregnant women and the EMF hypersensitive by covering up technical information, carcinogenic nature, and other health risks due to cumulative EMF exposure;

(iii) committed without errors, acts and omissions with regard to EMF and its effects such that their liability is solidary or in solidum;

(iv) as such, punitive or exemplary damages are due by operation of Section 49¹¹ of the Quebec Charter as well as by operation of Section 24(1) of the Canadian Charter of Rights and Freedoms for unlawful and intentional breaches of fundamental Charter rights;

- I. Whether, even if Respondents are able to prove they complied with all regulatory requirements, which is denied, civil liability under Art. 976 C.C.Q. is triggered, even in the absence of fault as abnormal inconvenience has arisen from the right of property;¹²
- J. The right of the Petitioners and each member of the class to claim damages, as well as moral, exemplary and Charter damages, from the Respondents;
- K. Whether Respondents are jointly and severally liable (or liable *in solidum*) for the damages caused to Petitioner and the members of the class;

¹⁰ *Ciment du St. Laurent inc.*, *supra*, at para. 22; Petitioner claims that all involuntary exposure should be compensate by treble damages as set out in the Ford Pinto line of jurisprudence.

¹¹ See *Hinse vs Canada* 2015 SCC35 where the Minister of Justice was found to have committed a fault pursuant to Art.1457 C.C.Q. and awarded punitive and compensatory damages pursuant to Sec.41 of the Quebec Charter for "unlawful and intentional interference" with Charter Rights.

¹² As set out in the Supreme Court decisions in *Drysdale vs. Dugas*, and *Ciment St. Laurent* at paras. 86 and 87.

- L. Whether Petitioner and class members may [...] invoke contractual arguments in the nature of breach of contract, products liability, failure to warn, or bad faith comportment against Respondents;
- M. Whether Respondents were at fault in not taking sufficient measures to assure the EMFs produced collectively did not create nuisance, exceed a safe level, or constitute an abuse of right, and whether their actions in this regard were intentional and/or fraudulent;
- N. Whether, having knowledge of the nuisance and/or abuse of right, Respondents were at fault in not acting in a timely manner to curtail the excessive EMF pollution alleged;
- O. Whether the national, provincial and municipal governments are liable for their failure to protect against EMF pollution;
- P. Whether section 46.1 of the *Quebec Charter of Rights and Freedoms* (“*The Quebec Charter*”) should be interpreted such that the European EMF standards (Resolution 1815 of the *Parliamentary Assembly of the Council of Europe*)/*BioInitiative 2007*, or a refined version thereof, are the correct measure to apply when interpreting 46.1;
- Q. Whether the *Quebec Environment Quality Act* provisions concerning EMF (*rayonnement*) should also be traditionally interpreted to apply the European standards concerning EMF;
- R. Whether EMF emissions referred to herein breach Arts. 6 (peaceful enjoyment and free disposition of property) and 46.1 of the *Quebec Charter* (the Right to a healthful environment *and* one respectful of biodiversity)¹³ and whether that unlawful interference entitles Petitioner and all other victims to obtain the cessation of that interference and, as intentional, punitive damages pursuant to Art. 49 of the *Quebec Charter*;
- S. Whether the cumulative EMF experienced by property owners has caused damage to property, that property has been injuriously affected or property values reduced without compensation and how much Defendants owe landowners for their loss;

¹³ These two distinct rights are recognized in *Delage c. Plantons A. & P. inc.* 2013 QCCS 2269 at page 45. As concerns the recognition of environmental protection as both an imperative and fundamental value of Canadian society see *ibid* at page 45 footnote 75 citing *Ciment du St. Laurent v. Barette* (2008), 3 S.C.R. 392 and *St-Luc de Vincennes v. Compostage Mauricie inc.* J.E. 2008-420 C.A. at para 46.

- T. A summary indicating the principle EMF emissions and enabling behaviour and technology of Defendants is produced herewith as **Appendix 1**,¹⁴ Petitioner explicitly reserving the right to modify and add to **Appendix 1** by future amendment;
- U. Whether Petitioner may claim on behalf of affected fauna; and more specifically whether the displaced or harmed fauna must be returned in the same numbers and to the same locations and in a safe environment by the Respondents pursuant to the rule in the Washington state Pacific Northwest decisions of Mr. Justice George Boldt;¹⁴
- V. Whether the actions of any Respondents constitutes participation in a criminal endeavour;
- W. Whether by failing to *properly regulate and* apply laws, regulations, codes or bylaws, the governmental entities named herein *were at fault, acted in bad faith and* willingly participated in or sanctioned criminal or penal activity;
- X. Whether the directors, officers, principles or controlling shareholders of Respondents are *personally* liable for any of the allegations claimed herein, and they are insured for same;
- Y. Whether the awarding of treble damages is justified in the circumstances;
- Z. Whether the class is entitled to immediate medical monitoring of EMF emissions and, what monitoring of the effects on humans and fauna is appropriate in the present circumstances and are class members entitled to special damages for costs incurred in the screening, diagnosis and treatment related to the cumulative effects of EMF. Should Defendants be required to implement a medical monitoring regime and, if so, what should that regime comprise and how should it be established?;
- AA. Whether children are at particular risk due to cell phone radiation and its links to cancer, as indicated in American pediatrics radio frequency (RF) guidelines produced as **Exhibit R-24**;
- BB. Whether the precautionary principle should be applied to curtail the present and imminent cumulative effects of EMF pollution in the province of Quebec;
- CC. Whether accelerated corrosion¹⁵ of infrastructure is caused by exposure to high levels of EMF and which parties are responsible for the cost of repair and in what proportion;

¹⁴ Rather than treaty rights as was the case in Washington state, Petitioner relies on Art. 20 *in fine* LQE and Art. 46.1 of the Quebec Charter. See the Court of Appeal decision in *Plantons A. et P. inc. c. Delage*, 2015 QCCA 7 at page 5 ff.

¹⁵ This is known as the Seebeck effect (Thomas Johann Seebeck) and is akin to galvanic corrosion.

DD. Whether Montreal's Atwater municipal water supply is at risk due to the EMF produced by Defendant Siemens Canada Ltd. at Test Bed 7, which is causing significant corrosion to the containment as well as water contamination;

EE. The quantum of damages due to all property-owners, residents, students and/or workers exposed to electromagnetic fields (EMF) in excess of the applicable Threshold Values detailed below in accordance with the Methodology described in Appendix 2ⁱⁱ, also produced as Exhibit R-18;

FF. Whether Defendants are obliged to collect, preserve and/or provide all relevant data relating to the cumulative effects of EMF in order to comply with their duties as stipulated in the second paragraph of the "Preliminary Provision", Art.18 & Art 20 of the Code of Civil Procedure?

Declared Threshold Exposure Standard for General Population in Uncontrolled Environments				
<i>Radiation Type</i>	<i>Band</i>	<i>Threshold Value</i>	<i>Units</i>	
Power Density	Radio Frequency 3 kHz – 300 GHz	0.1	$\mu W/cm^2$	microWatts per square centimeter
Magnetic Field	Low Frequency 30 Hz – 30 kHz	1	mG	milliGauss
Electric Field	Low Frequency 30 Hz – 30 kHz	0.6	V/m	Volts per meter

References: Council of Europe Resolution 1815; 2007 Bioinitiative Report

Declared Threshold Exposure Standard for Sensitive Individuals* or Sleeping Environments				
<i>Radiation Type</i>	<i>Band</i>	<i>Threshold Value</i>	<i>Units</i>	
Power Density	Radio Frequency 3 kHz – 300 GHz	0.01	$\mu W/cm^2$	microWatts per square centimeter
Magnetic Field	Low Frequency 30 Hz – 30 kHz	0.3	mG	milliGauss
Electric Field	Low Frequency 30 Hz – 30 kHz	0.2	V/m	Volts per meter

References: Council of Europe Resolution 1815; 2007 Bioinitiative Report

*Sensitive Individuals include EHS, young children and pregnant women

GG . Whether the class is entitled to act in the manner of a public prosecutor or in the public interest in the stead of the Federal, Provincial and Municipal governments where those governments have failed to act in the public interest due to *their fault, bad faith, dishonesty, [...] conflicts of interest or have [...] colluded in EMF pollution;*

HH. *What amount should farmers effected by "stray voltage" (cumulative effects of EMF in a farm setting) in excess of the lower threshold standard proposed by Petitioner be compensated and what measures must be taken by Defendants to ensure that stray voltage in farming communities is curtailed?*

II. Whether the Canadian Human Rights Commission's *Accommodation for Environmental Sensitivities Report (2007)* Recommendations concerning reasonable accommodation of EHS sensitive individuals, which includes the provision of low-electromagnetic-field equipment (at page 12) should be legally applied? (that Report produced as **Exhibit R-27**;

JJ Whether the Defendants who manufacture, regulate, permit, or adopt standards concerning any equipment that produces EMF are liable for the disposal costs of E-Waste (i.e. electronic products nearing or past the end of their useful life) should be held liable for the costs of reusing, refurbishing, recycling or disposing of that E-Waste;

KK The quantum of damages due to all property owners, residents, students and/or workers exposed to more than one milliGauss of magnetic field, 0.6 V/m of electric field, or 0.1 microWatt per square centimeter of microwave power density for general populations in uncontrolled environments; or 0.3 milliGauss of magnetic field, 0.2 V/m of electric field, or 0.01 microWatt per square centimeter of microwave power density for sleeping environments or sensitive individuals (children, pregnant women or the electromagnetic hypersensitive and for pets and animals);

LL [...]Does one have the right to not be exposed to EMF emissions above one milliGauss of magnetic field, 0.6 V/m of electric field, or/.../ 0.1 microWatt per square centimeter of microwave power density for general populations in uncontrolled environments or 0.3 milliGauss of magnetic field, 0.2 V/m of electric field, or/.../ 0.01 microWatt per square centimeter of microwave power density for sleeping environments or sensitive individuals (children, pregnant women or the electromagnetic hypersensitive and for pets and animals);

MM Do Quebecers have the right to opt out of the “Smart meter”;

NN What damages are they owed?

OO Are the class members’ s. 7 Charter rights unjustifiably infringed?

All persons who reside, work, study or own property in any part of the Province of Quebec, as well as flora, fauna, pets and animals that are exposed to a level in excess of one milliGauss of magnetic field, 0.6 V/m of electric field and 0.1 microWatt per square centimeter of microwave power density for general populations in uncontrolled environments, or 0.3 milliGauss of magnetic field, 0.2 V/m of electric field and 0.01 microWatt per square centimeter of microwave power density for sleeping environments or sensitive individuals (children, pregnant women or persons who are electromagnetic hypersensitive) from any one or any combination of *anthropogenic* the above-listed electromagnetic field (EMF) sources, who suffered moral, physical, psychological and/or genetic damages as a result EMF pollution. Pursuant to the precautionary principle, those born, not of the age of majority, are nonetheless claiming as class members given the pervasive, escalating and cumulative effects¹ of EMF pollution.

6. There are no questions of fact or law which are particular to each of the members, and only the specific amount of damages which might be claimed by particular members might vary, and then only to the extent that the harms suffered differ significantly from the harms suffered by the members of the class generally;
7. It is expedient that the bringing of a class action for the benefit of the members of the class be authorized;
8. The nature of the recourse which the Petitioner wishes to exercise on behalf of the members of the class is:

An action in damages and an injunction against Respondents Attorney General (Canada), Attorney General (Québec), [...], City of Sainte-Anne-des-Lacs, Hydro-Québec, Bell, Rogers, Videotron, Virgin Mobile, Fido, Telus, FCA Canada, G.M. Canada, Marriott International, Royal Society of Canada, Mattel/Fisher Price Canada, Whirlpool Canada L.P., Facebook, Air Canada, Osram Sylvania, Tesla Motors, G.E. Canada, Apple, Samsung Electronics Canada, Microsoft, I.B.M. Canada, Lenovo, Siemens Canada Ltd., Toshiba, Alphabet (Google), Panasonic Canada, Ericsson Canada, Silicon Labs, Texas Instruments Canada, Honeywell International, Arris Canada, Volkswagen Canada, Société de Transport de Montréal, Sony Corp. et als.

9. The conclusions sought by the Petitioner are:

CONDEMN the Attorney General of Québec, Hydro Québec and the other Respondents, jointly and severally and in solidum, to pay, on average, damages in the amount of one hundred thousand dollars (\$100,000) per person, adjusted per each sub-class of claimant;

CONDEMN the Attorney General of Canada¹⁶, the Attorney General of Québec, Hydro Québec and the other Respondents, jointly and severally and in solidum, to pay, on average, moral, exemplary and Charter damages in the amount of thirteen thousand dollars (\$13,000) per person, adjusted per each sub-class of claimant;

ORDER the collective recovery of said damages and **AUTHORIZE** the distribution of the balance in equal amounts between the members of the class;

¹⁶ Hinse vs Canada(Attorney General), 2015 SSC35, relying on Art.1457 C.C.Q. and Sec 49 of the Quebec Charter; L. Perret, "De l'impact de la Charte des droits et libertés de la personne sur le droit civil des contrats et de la responsabilité" (1981), 12 R.G.D. 121 at p.170.

ORDER the Attorney General of Québec, Hydro Québec and the other Respondents to cease producing, emitting or distributing or otherwise causing indirectly or directly, members of the class to be exposed to EMF which cumulatively exceeds the limits proscribed herein;¹⁷

ORDER Respondents jointly and severally and in solidum, to recreate the environment where fauna and flora that have been negatively impacted by the EMF pollution alleged herein return in the same number and same location to where they were found prior to the EMF pollution;

IMMEDIATELY ORDER, by way of injunctive relief, Respondents jointly and severally, to pay for, put in place, operate and provide weekly reporting to the public of medical monitoring facilities where meaningful data is collected on the effects of EMF on humans and fauna and flora that have been negatively impacted by the EMF pollution alleged herein;

IMMEDIATELY ORDER, by way of injunctive relief, the production by all Defendants of data relating to EMF levels admitted, studies performed prior to emplacement of EMF producing facilities and infrastructure, estimates of EMF to be emitted and all other related data, including that of all products manufacturers that could be useful in the calculation of cumulative EMF exposure for humans, flora, fauna and infrastructure including Magnetic, Electric and RF Power assessments relevant to users. This is in contact with body for wearable devices; 1 – 3 ft. for appliances, computers and similar equipment; tens to hundreds of meters for power distribution lines (farther for higher power infrastructures); 50 m to 2 km for wireless digital transmission devices. In the case of permanently installed, site-specific infrastructure or networks. Data should include any assessment (by measurement, modeling or otherwise by prediction) generated in the course of proposing, planning, implementing, commissioning or inspecting said infrastructure or networks; *Absent previously available data, Defendants shall collect and produce by means reasonably available said relevant data (EMF data may be collected employing existing infrastructures such as power distribution monitoring equipment or cellular network equipment or be employing networked consumer devices deployed throughout the region. Existing or new application software may be employed to automate said data collection/collation/production).*

¹⁷ A permanent injunction issues where the right of the party seeking relief is clear. Neighbourhood annoyance justifies injunctive relief. Where the recourse is for preventative purposes the general principle is that “there must be a high degree of probability that the harm will in fact occur”. *Operation Dismantle v The Queen* [1985] 1 S.C.R. 441 at p. 458, confirmed recently by the Quebec Court of Appeal in *Plantons A. & P. inc*, 2015 QCCA 7 p. 17 (para. 93).

IMMEDIATELY ORDER, by way of injunctive relief, that the Recommendations of the Canadian House of Commons Standing Committee (“the Committee”) be implemented namely:

Improve data collection on cancer rates and on relation between EMF and cancer; Funding research into EHS testing/diagnosis/treatment/impact in workplace; Guidelines and continuing education material related to EHS; Reasonable accommodations for EHS individuals per *Canadian human rights Act*; Openness/transparency on Safety Code 6 science review; System for Canadians to report adverse EMF reactions; Independent review whether protective measures for vulnerable populations in other countries (France Israel) should be adopted in Canada; Awareness campaign on safer use of EMF products in homes and schools;
Comprehensive review of EMF and cancer based on int’l best practices;
Fund research on EMF and multiple negative health outcomes; Regulations on marketing EMF devices to children under 14 to raise awareness of risks and avoidance strategies; (the Committee Report is produced as **Exhibit R-26**);

ORDER the Governments of Quebec, Canada and Sainte-Anne-des-Lacs and other Quebec Municipal governments to adopt the specific EMF standards set out herein at footnote one at page 2 [...];

ORDER that the precautionary principle be applied to the legislation, regulation, monitoring, abatement and remediation of cumulative EMF pollution in Quebec;

ORDER all Defendants responsible directly or indirectly for E-Waste to pay the costs of the of reusing, refurbishing, recycling or disposing of that E-Waste (Extended Product Responsibility (EPR));

MAKE ANY OTHER ORDER this Honourable Court deems appropriate.

10. The Petitioner requests that he be ascribed the status of Representative.
11. The Petitioner is in a position to represent the members adequately, for the following reasons:

- A. He lives in a neighbourhood directly affected by excessive EMF pollution, which will include tetra wavelength transmissions in the future;
 - B. He has followed this problem closely since 2000 and has taken numerous steps to acquaint himself with the nature of the problems created as a result of EMF pollution, is [...] informed on the impacts and consequences of this activity as it affected those in the neighbourhoods identified under the description of class presented above;
 - C. He [...] gathered the names, addresses and phone numbers of 1,287 persons who have been [...] affected by EMF (**Exhibit R-5**). He also gathered [...] information on the [...] nature of the various harm and inconvenience suffered by those persons and by the victims of excessive EMF exposure;
 - D. He possesses all the personal, moral and intellectual qualities to see this class action through to its final resolution and will act for the benefit of the members of the class.
 - E. He has acquainted himself with the concerns of each of the Affiants, the Experts who have been consulted in the present matter and has been present and involved at every stage of the proceedings;
12. The Petitioner suggests that the class action be brought before the Superior Court of the District of Montreal for the following reasons:
- A. The Respondents Attorney General of Québec and numerous respondents operate businesses in the Province of Québec, transmitted and transmit EMF pollution in Québec;
 - B. The EMF pollution complained of that caused the harms suffered by Petitioner and the other class members was carried out in the Province of Québec;
 - C. The Petitioner as well as the members of the class which they represent, all reside in the Province of Québec;
 - D. There exists no better suited *forum* or district to render justice in the present dispute.

WHEREFORE, PETITIONER PRAYS THIS HONOURABLE COURT TO:

GRANT the present Motion;

AUTHORIZE the institution of a class action as follows:

An action in damages *and injunctive relief* against the Respondents Attorney General of Québec, and the [...]other Respondents seeking damages for *the cumulative effect of* EMF pollution to Quebecers;

ATTRIBUTE to Marcel Durand the status of Representative for the purpose of bringing the class action for the benefit of the following class of natural persons, namely:

All persons who reside, work, study or own property in any part of the Province of Quebec, as well as flora, fauna, pets and animals that are exposed to a level in excess of one milliGauss of magnetic field, 0.6 V/m of electric field, or 0.1 microWatt per square centimeter of microwave power density for general populations in uncontrolled environments; or 0.3 milliGauss of magnetic field, 0.2 V/m of electric field, or 0.01 microWatt per square centimeter of microwave power density for sleeping environments or sensitive individuals (children, pregnant women or persons who are electromagnetic hypersensitive) from any one or any combination of anthropogenic the above-listed electromagnetic field (EMF) sources, who suffered moral, physical, psychological and/or genetic damages as a result EMF pollution. Pursuant to the precautionary principle, those born, not of the age of majority, are nonetheless claiming as class members given the pervasive, escalating and cumulative effects¹ of EMF pollution. [...]

IDENTIFY as follows the principal questions of fact and of law to be treated collectively in the class action proceedings:

- E. The inconvenience, discomfort, stress, economic and health problems that were suffered by each of the members of the class were caused by/or created as a result of excessive EMF exposure;
- F. The EMF emissions contravene sections 19.1, 20, 90, 91, 92 and 94 and following of *The Environmental Quality Act* ("the E.Q.A.");

- G. Whether the troublesome emissions described herein contravene art. 20 *in fine E.Q.A.* since they “*porte atteinte au confort de l’être humain*”;
- H. These EMF emissions exceed the standard of one milliGauss of magnetic field, 0.6 V/m of electric field, or [...]0.1 microWatt per square centimeter of microwave power density for general populations in uncontrolled environments; or 0.3 milliGauss of magnetic field, 0.2 V/m of electric field, or [...] 0.01 microWatt per square centimeter of microwave power density for sleeping environments or sensitive individuals (children, pregnant women or the electromagnetic hypersensitive) and for pets and animals;
- I. The EMF emissions constitute “contaminants” within the meaning of Art. 1(5) of the E.Q.A. and further contravene Arts. 6.01, 7.01, 7.02, 7.04, 7.05, 7.06, 7.08, 7.09 and must be statutorily recognized as such;
- J. The EMF emissions constitute a nuisance within the meaning of Article 976 C.C.Q. as they exceed that which is reasonable and tolerable in a residential environment;
- K. These emissions constitute an abuse of right within the meaning of Articles 6 and 7 C.C.Q. as exercised in bad faith, with the intent to injure another or exercised unreasonably;
- L. Whether the emissions emitted by certain Respondents including Hydro-Québec and the tower emitters complained of constitute neighbourhood annoyance beyond the normal such as to trigger the provision of Art. 976 the Quebec Civil Code and, additionally if those emissions constitute a fault, were intentional and whether the governmental Respondents were complicit therein, such that punitive, exemplary and treble damages are warranted;¹⁸

Respondents including the Provincial and Federal governments:

(i) hid information concerning EMF pollution and its effects, which caused prejudice to those subjected to EMF pollution;

(ii) willfully and intentionally caused prejudice to the Quebec population, its flora and fauna, children, pregnant women and the EMF hypersensitive by covering up technical information, carcinogenic nature, and other health risks due to cumulative EMF exposure;

¹⁸ *Ciment du St. Laurent inc., supra*, at para. 22; Petitioner claims that all involuntary exposure should be compensate by treble damages as set out in the Ford Pinto line of jurisprudence.

(iii) committed without errors, acts and omissions with regard to EMF and its effects such that their liability is solidary or in solidem;

(iv) as such, punitive or exemplary damages are due by operation of Section 49¹⁹ of the Quebec Charter as well as by operation of Section 24(1) of the Canadian Charter of Rights and Freedoms for unlawful and intentional breaches of fundamental Charter rights;

- M. Whether, even if Respondents are able to prove they complied with all regulatory requirements, which is denied, civil liability under Art. 976 C.C.Q. is triggered, even in the absence of fault as abnormal inconvenience has arisen from the right of property;²⁰
- N. The right of the Petitioners and each member of the class to claim damages, as well as moral, exemplary and Charter damages, from the Respondents;
- O. Whether Respondents are jointly and severally liable (or liable *in solidum*) for the damages caused to Petitioner and the members of the class;
- P. Whether Petitioner and class members may [...] invoke contractual arguments in the nature of breach of contract, products liability, failure to warn, or bad faith comportment against Respondents;
- Q. Whether Respondents were at fault in not taking sufficient measures to assure the EMFs produced collectively did not create nuisance, exceed a safe level, or constitute an abuse of right, and whether their actions in this regard were intentional and/or fraudulent;
- R. Whether, having knowledge of the nuisance and/or abuse of right, Respondents were at fault in not acting in a timely manner to curtail the excessive EMF pollution alleged;
- S. Whether the national, provincial and municipal governments are liable for their failure to protect against EMF pollution;
- T. Whether section 46.1 of the Quebec Charter or Rights and Freedoms ("The Quebec Charter") should be interpreted such that the European EMF standards (Resolution 1815

¹⁹ See *Hinse vs Canada* 2015 SCC35 where the Minister of Justice was found to have committed a fault pursuant to Art.1457 C.C.Q. and awarded punitive and compensatory damages pursuant to Sec.41 of the Quebec Charter for "unlawful and intentional interference" with Charter Rights.

²⁰ As set out in the Supreme Court decisions in *Drysdale vs. Dugas*, and *Ciment St. Laurent* at paras. 86 and 87.

of the Parliamentary Assembly of the Council of Europe)/BioInitiative 2007, or a refined version thereof, are the correct measure to apply when interpreting 46.1;

- U. Whether the *Quebec Environment Quality Act* provisions concerning EMF (*rayonnement*) should also be traditionally interpreted to apply the European standards concerning EMF;
- V. Whether EMF emissions referred to herein breach Arts. 6 (peaceful enjoyment and free disposition of property) and 46.1 of the *Quebec Charter* (the Right to a healthful environment and one respectful of biodiversity)²¹ and whether that unlawful interference entitles Petitioner and all other victims to obtain the cessation of that interference and, as intentional, punitive damages pursuant to Art. 49 of the *Quebec Charter*;
- W. Whether the cumulative EMF experienced by property owners has caused damage to property, that property has been injuriously affected or property values reduced without compensation and how much Defendants owe landowners for their loss;
- X. A summary indicating the principle EMF emissions and enabling behaviour and technology of Defendants is produced herewith as **Appendix 1**,ⁱⁱⁱ Petitioner explicitly reserving the right to modify and add to **Appendix 1** by future amendment;
- Y. Whether Petitioner may claim on behalf of affected fauna; and more specifically whether the displaced or harmed fauna must be returned in the same numbers and to the same locations and in a safe environment by the Respondents pursuant to the rule in the Washington state Pacific Northwest decisions of Mr. Justice George Boldt;²²
- Z. Whether the actions of any Respondents constitutes participation in a criminal endeavour;
- AA. Whether by failing to properly regulate and apply laws, regulations, codes or bylaws, the governmental entities named herein were at fault, acted in bad faith and willingly participated in or sanctioned criminal or penal activity;
- BB. Whether the directors, officers, principles or controlling shareholders of Respondents are personally liable for any of the allegations claimed herein, and they are insured for same;

²¹ These two distinct rights are recognized in *Delage c. Plantons A. & P. inc.* 2013 QCCS 2269 at page 45. As concerns the recognition of environmental protection as both an imperative and fundamental value of Canadian society see *ibid* at page 45 footnote 75 citing *Ciment du St. Laurent v. Barette* (2008), 3 S.C.R. 392 and *St-Luc de Vincennes v. Compostage Mauricie inc.* J.E. 2008-420 C.A. at para 46.

²² Rather than treaty rights as was the case in Washington state, Petitioner relies on Art. 20 *in fine* LQE and Art. 46.1 of the *Quebec Charter*. See the Court of Appeal decision in *Plantons A. et P. inc. c. Delage*, 2015 QCCA 7 at page 5 ff.

- CC. Whether the awarding of treble damages is justified in the circumstances;
- DD. Whether the class is entitled to immediate medical monitoring of EMF emissions and, what monitoring of the effects on humans and fauna is appropriate in the present circumstances and are class members entitled to special damages for costs incurred in the screening, diagnosis and treatment related to the cumulative effects of EMF. Should Defendants be required to implement a medical monitoring regime and, if so, what should that regime comprise and how should it be established?;
- EE. Whether children are at particular risk due to cell phone radiation and its links to cancer, as indicated in American pediatrics radio frequency (RF) guidelines produced as **Exhibit R-24**;
- FF. Whether the precautionary principle should be applied to curtail the present and imminent cumulative effects of EMF pollution in the province of Quebec;

Declared Threshold Exposure Standard for General Population in Uncontrolled Environments				
<i>Radiation Type</i>	<i>Band</i>	<i>Threshold Value</i>	<i>Units</i>	
Power Density	Radio Frequency 3 kHz – 300 GHz	0.1	$\mu W/cm^2$	microWatts per square centimeter
Magnetic Field	Low Frequency 30 Hz – 30 kHz	1	mG	milliGauss
Electric Field	Low Frequency 30 Hz – 30 kHz	0.6	V/m	Volts per meter

References: Council of Europe Resolution 1815; 2007 Bioinitiative Report

Declared Threshold Exposure Standard for Sensitive Individuals* or Sleeping Environments				
<i>Radiation Type</i>	<i>Band</i>	<i>Threshold Value</i>	<i>Units</i>	
Power Density	Radio Frequency 3 kHz – 300 GHz	0.01	$\mu W/cm^2$	microWatts per square centimeter
Magnetic Field	Low Frequency 30 Hz – 30 kHz	0.3	mG	milliGauss
Electric Field	Low Frequency 30 Hz – 30 kHz	0.2	V/m	Volts per meter

References: Council of Europe Resolution 1815; 2007 Bioinitiative Report

*Sensitive Individuals include EHS, young children and pregnant women

GG .Whether the class is entitled to act in the manner of a public prosecutor or in the public interest in the stead of the Federal, Provincial and Municipal governments where those governments have failed to act in the public interest due to *their fault, bad faith, dishonesty, [...] conflicts of interest or have [...] colluded in EMF pollution;*

HH. *What amount should farmers effected by "stray voltage" (cumulative effects of EMF in a farm setting) in excess of the lower threshold standard proposed by Petitioner be compensated and what measures must be taken by Defendants to ensure that stray voltage in farming communities is curtailed?*

II. Whether the Canadian Human Rights Commission's *Accommodation for Environmental Sensitivities Report (2007)* Recommendations concerning reasonable accommodation of EHS sensitive individuals, which includes the provision of low-electromagnetic-field equipment (at page 12) should be legally applied? (that Report produced as **Exhibit R-27**;

JJ Whether the Defendants who manufacture, regulate, permit, or adopt standards concerning any equipment that produces EMF are liable for the disposal costs of E-Waste (i.e. electronic products nearing or past the end of their useful life) should be held liable for the costs of reusing, refurbishing, recycling or disposing of that E-Waste;

KK The quantum of damages due to all property owners, residents, students and/or workers exposed to more than one milliGauss of magnetic field, 0.6 V/m of electric field, or 0.1 microWatt

per square centimeter of microwave power density for general populations in uncontrolled environments; or 0.3 milliGauss of magnetic field, 0.2 V/m of electric field, or 0.01 microWatt per square centimeter of microwave power density for sleeping environments or sensitive individuals (children, pregnant women or the electromagnetic hypersensitive and for pets and animals);

LL [...]Does one have the right to not be exposed to EMF emissions above one milliGauss of magnetic field, 0.6 V/m of electric field, or [...] 0.1 microWatt per square centimeter of microwave power density for general populations in uncontrolled environments or 0.3 milliGauss of magnetic field, 0.2 V/m of electric field, or [...] 0.01 microWatt per square centimeter of microwave power density for sleeping environments or sensitive individuals (children, pregnant women or the electromagnetic hypersensitive and for pets and animals);

MM Do Quebecers have the right to opt out of the “Smart meter”;

NN What damages are they owed?

OO Are the class members’ s. 7 Charter rights unjustifiably infringed?

IDENTIFY as follows the conclusions sought with relation to such questions:

ORDER the Attorney General of Québec, Hydro Québec and the other Respondents to cease producing, emitting, transmitting distributing or causing indirectly or directly, members of the class to be exposed to EMF which directly or cumulatively exceeds the limits proscribed herein;

CONDEMN the Attorney General of Québec, Hydro Québec and the other Respondents, jointly and severally and in solidum, to pay damages in the amount of, on average, one hundred thousand dollars per person (*\$113,000*)[...] to be adjusted as concerns the sub-classes to be identified in the course of the present proceedings;

ORDER the collective recovery of said damages and **AUTHORIZE** the distribution of the balance in equal amounts between the members of the class;

DECLARE that any member who has not requested his exclusion from the group be bound by any judgment to be rendered on the class action, in accordance with law;

FIX the delay for exclusion to be thirty (30) days following the date of the Notice to Members, and that at the expiry of such delay the members of the group who have not requested exclusion be bound by any such judgment;

ORDER the publication at any date convenient to this Honourable Court of a Notice to Members in the *La Presse*, The Gazette, [...] and Bloomberg Business Week or any other appropriate newspaper or publication;

REFER the present record to the Chief Justice of this Honourable Court so that he or she may determine the district in which the class action is to be brought and designate the Judge before whom it will be heard;

ORDER that in the event that the class action is to be brought in another district, the clerk of the Court, upon receiving the decision of the Chief Justice, is to transmit the present record to the clerk of the district designated.

THE WHOLE with costs.

MONTREAL, this 31st day of March, 2017



CHARLES O'BRIEN

Attorney for Marcel Durand

AFFIDAVIT

I, Marcel Durand, domiciled and residing at 5 chemin des Ormes, Sainte-Anne-des-Lacs, in the Judicial District of Terrebonne, solemnly affirm:

1. THAT I am the Petitioner in the present matter;
2. THAT I have attentively read this Re-Re-Amended Motion Seeking Authorization and affirm that all the facts alleged in the Re-Re-Amended Motion are, to the best of my knowledge, true.

AND I HAVE SIGNED:

(s)

MARCEL DURAND

SOLEMNLY AFFIRMED BEFORE ME at Montreal, Québec, this 31st day of March, 2017

Commissioner for the Taking of Oaths

(s)

Appendix 1

Summary of the EMF contributions of each of the named Defendants

Nb. This is a non-limitative indication only. Each Defendant is liable, jointly and severally and/or *in solidem* for all EMF generated, emitted or facilitated. Plaintiff reserves its right to explicit its specific claims as will be authorized. Each Defendant is liable for *all* EMF emitted or facilitated by it in the Province of Quebec.

Air Canada: privacy breach, use of global distribution systems; 100 mW measured in cabin in one sample;

Alphabet (Google): cellular telephones, laptops and tablets, cloud communications, VR, Google Fiber, Nest Labs (EMF and data collection/privacy);

Apple Canada: cell phones, tablets, watches, data collection (privacy), Apple car play, AirPods, VR headsets;

Arris Canada: Moda, data collection (privacy);

Attorney General of Canada: failure of Canadian gov't; especially Health Canada, to fulfill mandate of ". . . ensuring best health of Canadians"; capitulation with industry to suppress health risks, conflicts of interest;

Attorney General of Quebec: Failure to apply its environmental legislation, permitting of EMF pollution, failure to make operational the EMF provisions in the *Environment Quality Act*, breaches of privacy, conflicts of interest with the industries employing EMF, Letter R-4, which constitutes collusion, suppression of evidence and intentional interference with citizens' health, intentional breaches of both *Charters*, sub-delegation of jurisdiction to Hydro-Quebec;

Bell Canada: Cell phone towers, cell phones, cell phone transmissions of EMF, tablets, television transmissions, other sources of WiFi;

Cisco Systems, Inc.: Modems, digital networks, networking hardware, telecommunications equipment, Internet of Things, remotely monitoring user's connections, firewall backdoor;

Ericsson Canada: telephones, cell phones, modems and networking and telecommunications equipment;

Facebook: Oculus Rift, as a content provider, a facilitator. As concerns children, time spent on Facebook exposes them to EMF from the devices employed, telecom infrastructure project. VR headsets;

FCA Canada: EMF from vehicles as indicated by vehicle survey, Apple car play;

General Electric Canada: Every product they make, everything that plugs in, including portable phones, MRIs and X-Ray machines;

General Motors of Canada: EMF within vehicles as indicated by vehicle survey, Apple car play, Chevy Bolt;

Hewlett Packard Co.: PCs, networking hardware, servers, printers, photocopiers;

Hitachi Ltd.: telecommunication systems, digital media and consumer products, electronic systems and equipment, printers, photocopiers;

Honeywell International Inc.: computers, scanners, thermostats, sensors, security alarm systems, privacy breaches, aircraft lighting, power and cockpit displays, communications equipment, flight management systems;

Hydro Quebec: Improperly installed and located power lines, smart meters communication, transformers, and other infrastructures; and data collection (privacy);

IBM Canada: Computer hardware and computers, ATMs, Internet of Things, console gaming systems, photocopiers, microprocessors, networking equipment, modems;

Lenovo Canada: Computers, smartphones, workstations, servers, electronic storage devices, smart televisions (privacy and EMF), printers, photocopiers;

Marriott International: Provider of free WiFi in all faculties exposes those using it (single damages) and those not using it (treble damages);

Mattel/Fisher Price Canada: Baby monitors, children's toys that plug in, pulsed digital communicating baby monitors, especially DECT devices;

Microsoft Canada: Cellular telephones, laptops and tablets, desktop computers, cloud communications, virtual reality, more than 90% of computers connected to the internet operate under a Microsoft Operating System (91.15% during Jan 2014-Feb2016

(<https://www.netmarketshare.com/operating-system-market-share.aspx?qprid=10&qpcustomd=0&qpsp=2014&qnp=3&qtimeframe=Y>);

The Microsoft Operating system installs device drivers and initiates, monitors and mediates digital network communications between software applications and peripheral devices including WiFi, Bluetooth and other wireless peripheral devices.

Microsoft markets mobile devices (including Windows phones and other devices incorporating Nokia technologies) which generate wireless communications traffic over Bluetooth, WiFi, or any of a number of mobile network communications protocols (including but not limited to 4G, LTE, GSM, EV DO, HSDPA, etc.).

Estimate 634,814 Windows Phone users in Canada in 2015 (29,389,553 mobile subscribers http://www.cwta.ca/wp-content/uploads/2016/03/SubscribersStats_en_2015_Q4.pdf of which 2.16% use Windows Phone Operating system <https://www.netmarketshare.com/operating-system-market-share.aspx?qprid=8&qpcustomd=1&qpsp=2014&qnp=3&qtimeframe=Y>).

Microsoft web-served “cloud” applications generate increased demand for network communications traffic – including wireless traffic (WiFi and Mobile) – by serving applications from a remote process to a local user terminal device (desktop or mobile) as opposed to directly running an application entirely on the local terminal device (no network required).

Videoconferencing applications such as Microsoft Skype generate increased demand for network communications traffic – including wireless traffic (WiFi and Mobile) – by increasing the data bandwidth required compared to traditional voice-only communications technologies.

HoloLens VR headsets.

Therefore, Microsoft products and services substantially enable and contribute – directly and indirectly – to the generation of EMFs in homes, businesses and in intimate proximity to Canadians.

Osram/Sylvania: Lighting, high EMF switching lighting including low frequency switching, high field fluorescent and electroluminescent systems and RF-band switching power circuits (including dimmers) for LED devices;

Panasonic Canada: Digital and analog televisions, electric shavers, security solutions, household appliances, mobile and equipment, headphones, in-flight entertainment systems, mobile phones, smart phones, refrigerators, semiconductors, electric components, electric fans, computers;

Philips Canada: baby monitors, electric breast pumps, electronics, electric shavers, trimmers, toothbrushes, air flossers, epilators, lighting, espresso machines and other kitchen products;

Restaurant Brands International [3 G Capital]: Provider of free WiFi in all facilities exposes those using it (single damages) and those not using it (treble damages);

Rogers: Cell phone towers, cell phones, cell phone transmissions of EMF, tablets, television transmissions, other sources of WiFi, privacy breach re (insecure) email servers (Yahoo);

Royal Society of Canada: Gross negligence and fraud in its description of the science and safe levels of EMF (treble damages);

Sainte-Anne-des-Lacs: Authorization of the Roger Bell and Fido tower, Authorisation and operation of the Municipal tower in close proximity to Petitioner's residence, permitting Hydro Quebec to install dangerous wires near residences.

Samsung Electronics Canada: cordless telephones, cell phones, smart phones, tablets, smart TVs, household appliances, including smart refrigerators;

Siemens Canada: Test bed 7 which is exposing Montreal's Municipal water supply to excessive levels of EMF, all Siemens products that plug in, generators, engines, ownership stake in Osram lighting, Management segment provides products, systems, solutions, software, and services for transmitting and distributing power, and developing grid infrastructure, Building Technologies segment offers automation technologies and services for fire safety, security, building automation, heating, ventilation, air conditioning, and energy management. The company's Mobility segment offers passenger and freight transportation systems and solutions, including rail vehicles, rail automation systems, rail electrification systems, road traffic technology, Healthcare segment provides medical imaging, laboratory diagnostics, and IT solutions to the healthcare industry, enterprise software;

Silicon Labs Inc.: semiconductors, Internet of Things, modems, microcontrollers, chipsets, consumer electronics, networking equipment, set-top boxes, printers;

Sony Corp: Cell phones, Play station and its gaming division, virtual reality devices, everything that they manufacture sell or distribute that plugs in, data collection (privacy), and batteries;

Starbucks Corp.: WiFi

STM: Montreal (and environs) Metro system and in particular braking systems and ambient EMF in metro stations and in close proximity to platforms;

Tesla Motors: High EMF within Tesla vehicles, falcon wing doors, data collection (privacy), photovoltaic (PV) cells;

Telus: Cell phone towers, cell phones, cell phone transmissions of EMF, tablets, other sources of WiFi;

Texas Instruments Canada: semiconductors, embedded processors, computers;

Toshiba: “Smart” meters’ EMF emissions, data collection (privacy);

Videotron: Cell phone towers, cell phones, cell phone transmissions of EMF, tablets, television transmissions, other sources of WiFi;

Volkswagen Canada: EMF within vehicles as indicated by vehicle survey, Apple car play;

Whirlpool Canada: Consumer appliances

Xerox: Printers, photocopiers