CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.:

No.: 500-06-001238-233

COURT OF APPEAL OF QUÉBEC

MARAL YERETZIAN, [redacted]

APPELLANT/Plaintiff

v.

UBER PORTIER CANADA INC., a legal person duly constituted under the laws of Canada, with its head office at 66 Wellington St W, Suite 5300, TD Bank Tower, Toronto, ON M5K 1E6

RESPONDENT/Defendant

and

UBER RASIER CANADA INC., a legal person duly constituted under the laws of Canada, with its head office at 66 Wellington St W, Suite 5300, TD Bank Tower, Toronto, ON M5K 1E6

RESPONDENT/Defendant

and

UBER CASTOR CANADA INC., a legal person duly constituted under the laws of Canada, with its head office at 66 Wellington St W, Suite 5300, TD Bank Tower, Toronto, ON M5K 1E6

RESPONDENT/Defendant

and

UBER TECHNOLOGIES, INC., a legal person duly constituted under the laws of Delaware, with its head office at 1725 Third St, San Francisco, CA, USA, 94158

RESPONDENT/Defendant

and

UBER CANADA INC., a legal person duly constituted under the laws of Canada, with its head office at 66 Wellington St W, Suite 5300, TD Bank Tower, Toronto, ON M5K 1E6

RESPONDENT/Defendant

and

UBER B.V., a legal person duly constituted under the laws of the Netherlands, with its head office at Burgerweeshuispad 301, 1076 HR Amsterdam, Netherlands

RESPONDENT/Defendant

and

RASIER OPERATIONS B.V., a legal person duly constituted under the laws of the Netherlands, with its head office at Burgerweeshuispad 301, 1076 HR Amsterdam, Netherlands

RESPONDENT/Defendant

and

UBER PORTIER B.V., a legal person duly constituted under the laws of the Netherlands, with its head office at Vijzelstraat 68, 1017 HL, Amsterdam, Netherlands

RESPONDENT/Defendant

NOTICE OF APPEAL
(Article 352 CCP)
Appellant
Dated June 23, 2025

I — EXPRESS REFERENCE

1. This file contains no confidential information;

II — FACTS

2. The appeal addresses authorization of a class action against the Respondents on behalf of all persons who used the Uber and/or Uber Eats applications (the "**Uber App**") to transport passengers and/or to provide delivery services in the province of Québec pursuant to an agreement with the Respondents. Based on her experience, the Appellant alleges that the level of control the Respondents have over her and putative Class Members creates an employer-employee relationship and that the Respondents have misclassified the putative Class Members' employment status, depriving them of the protections and benefits under the *Act Respecting Labour Standards* (the "***Act***");[1]

3. The Appellant appeals from a judgment of the Superior Court of Québec rendered on May 27, 2025 by the Honourable Donald Bisson, JCS (the "**Application Judge**"), sitting in the District of Montréal, which dismissed the *Amended Application for Authorization to Institute a Class Action and to Obtain the Status of Representative* (the "**Authorization Application**") of the Appellant Maral Yeretzian (the "**Appellant**"), as it appears from the judgment of first instance communicated in support hereof as **Schedule 1** (the "**Judgment of First Instance**");

4. On June 4, 2025, the office of the Court of first instance issued a notice of judgment in accordance with art 335 CCP, as it appears from the notice of judgment communicated in support hereof as **Schedule 2**;

5. The hearing of the Authorization Application lasted one day;

6. The Appellant files this Notice of Appeal as of right, in accordance with art 578 CCP;

III — GROUNDS OF APPEAL

7. The Application Judge erred in his judgment for the reasons that follow;

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[1] CQLR c N-1.1.

Errors of Law with Respect to Art 575(2) CCP

8. First, the Application Judge erred in law by adopting a narrow and literal interpretation of arts 2892, 2895, and 2908 CCQ, when determining whether the filing of the Statement of Claim in *Virani v Uber Portier Canada Inc* (the "***Virani* Action**") – a then-proposed parallel class action commenced in Alberta on behalf of a proposed class initially including Québec drivers and delivery persons – suspended or interrupted the one-year prescriptive period applicable to the Appellant under s 115 of the *Act*;[2]

9. The Appellant intends to demonstrate that:

   (1) the Application Judge failed to consider appellate court jurisprudence holding that arts 2892 and 2895 CCQ are to be given a large interpretation, including appellate court jurisprudence raised by the Appellant's lawyers in oral argument;[3]

   (2) that the words "demande en justice," "demande pour obtenir l'autorisation d'exercer une action collective" in arts 2892, 2895, and 2908 CCQ must be given a fair, large, and liberal interpretation so as to include filings from other Canadian jurisdictions that commence class proceedings on behalf of proposed classes that include putative Québec class members, including the Statement of Claim in the *Virani* Action – even when the class is not yet definitive;[4]

   (3) that limiting art 2908 CCQ to Québec authorization applications[5] is too restrictive and does not align with the English-language version of that article;

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[2] *Supra* note 1, s 115.
[3] See e.g. *Société canadienne des postes c Rippeur*, 2013 QCCA 1893 at paras 29, 31, 33, 39; *Sudaco, SpA c Connexions commerciales internationals CT inc*, 2012 QCCA 2254 at paras 24-25; *Flanagan c Périard*, 2008 QCCA 614 at para 1, aff'g *Flanagan c Périard*, 2007 QCCS 4584 at paras 25-43.
[4] *Option consommateurs c LG Chem Ltd*, 2017 QCCS 3539 at para 36, leave to appeal to the CA refused, *Panasonic Corporation c Option consommateurs*, 2017 QCCA 1442.
[5] Judgment of First Instance at paras 67-68.

(4) that art 2892 CCQ applies here to interrupt prescription, or, in the alternative, that art 2908 CCQ applies here to suspend prescription;

(5) that, at the very least, it is arguable that the Appellant's personal claim is not prescribed; and,

(6) that the Appellant has met the art 575(2) CCP criterion and established that she has an appearance of right or arguable case;

9. This error of law is overriding. Because of this error, the Application Judge incorrectly concluded that the Appellant's personal claim was prescribed and that she had not met the art 575(2) CCP criterion;[6]

10. Furthermore, the Application Judge's interpretation would lead to multiple proceedings and would unduly burden Québec courts. If the Appellant had filed an authorization application in Québec when she was still a putative class member of the proposed class in the *Virani* Action in Alberta, it would have given rise to *lis pendens* and likely resulted in a stay of proceedings application;

11. Additionally, the Application Judge's narrow interpretation – that filings like the Statement of Claim in the *Virani* Action neither suspend or interrupt prescription[7] – results in an injustice for putative Québec class members of proposed class actions in other Canadian jurisdictions. Putative Québec class members are entitled to think that their rights are preserved by the proposed class action brought on behalf of a proposed class including them. His narrow interpretation leads to an unreasonable and unjust result;

12. The Appellant respectfully submits that the Application Judge's narrow and literal interpretations of arts 2892, 2895, and 2908 CCQ are ill-founded and should be set aside;

13. The Appellant respectfully submits that had it not been for this error of law by the Application Judge, she would have met the art 575(2) CCP criterion;[8]

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[6] *Ibid* at paras 73-74.
[7] *Ibid* at para 72.
[8] But for this error of law, the Application Judge would have found that the Appellant had establish an arguable case: see *ibid* at paras 73-74, 76, 85.

14. Second, in concluding that the Appellant seeks no conclusion regarding the nullity of the new arbitration and class action waiver clause that Uber introduced in August 2020 (the "**New Arbitration Clause**"),[9] the Application Judge erred in law by adopting a restrictive and literal interpretation of the Appellant's allegations in the Authorization Application;

15. The Appellant intends to demonstrate that:

(1) while it is true that the the class action to be instituted is an action in damages, para 27 of the Authorization Application (**Schedule 3**) and one of the proposed common issues[10] suggest the Appellant's intention to seek a conclusion on the nullity of the New Arbitration Clause;

(2) whether or not the Appellant expressly seeks a conclusion regarding the validity of the New Arbitration Clause, its validity will be a common issue for determination as the class action to be instituted proceeds – whether it arises by way of the Appellant seeking an express conclusion for declaratory relief or by virtue of the Respondents advancing it as a defence to the action;[11]

(3) it would be premature to dismiss the Appellant's claims contesting the validity of the New Arbitration Clause on the basis that the Appellant seeks no formal conclusion regarding its nullity;[12]

(4) the Application Judge was too strict and incorrectly required the Appellant's allegations to be perfect, rather than adopting the flexible, liberal, and generous approach required when determining whether the authorization criteria are met;[13]

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[9] *Ibid* at para 32.
[10] Authorization Application at paras 27 and 31(e).
[11] *Virani v Uber Portier Canada Inc*, 2023 ABKB 240 at paras 35, 64 [*Virani*].
[12] *Ibid* at para 35.
[13] *Wang v CST Consultants inc*, 2021 QCCS 1104 at para 54 [*Wang*], citing *Desjardins Financial Services Firm Inc v Asselin*, 2020 SCC 30 at paras 16-17; *Desjardins Financial Services Firm Inc v Asselin*, 2020 SCC 30 at para 29 [*Asselin*].

(5) the Application Judge failed to consider any inferences or presumptions of fact or law that may arise from the alleged facts and that may serve to establish the existence of an arguable case;[14] and,

(6) the Appellant's allegations contesting the validity of the New Arbitration Clause were "specific enough to allow the legal syllogism to be considered" and their true meaning to be clear;[15]

16. Third, the Application Judge erred in law in his interpretation and application of art 622 CCP when he concluded, in *obiter dicta*, that the competence-competence principle and art 622 CCP would require him to refer the question of the validity of the New Arbitration Clause to an arbitrator, due to the Superior Court's absence of jurisdiction on the issue;[16]

17. The Appellant intends to demonstrate that:

(1) the Application Judge failed to consider that art 622, para 2 CCP does not require the Court to refer the issue to arbitration if the Court finds the arbitration agreement to be null;

(2) the Application Judge improperly undertook a merits analysis on the validity of the New Arbitration Clause, which is not permitted at the authorization stage;[17] and,

(3) the Appellant has established an arguable case that the New Arbitration Clause is null;

18. As a result of these errors in law, the Application Judge concluded that the Appellant had not met the art 575(2) CCP criterion, that she has an appearance of right or arguable case;

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[14] *Infineon Technologies AG v Option consommateurs*, 2013 SCC 59 at para 89; *Tixador c Procureur général du Québec (Ministère de la Sécurité publique)*, 2024 QCCS 2147 at para 9.
[15] *Wang*, *supra* note 13 at para 54, citing *Asselin*, *supra* note 13 at paras 16-17.
[16] Judgment of First Instance at para 84.
[17] *L'Oratoire Saint-Joseph du Mont-Royal v JJ*, 2019 SCC 35 at para 7 [*L'Oratoire*].

Errors of Law with Respect to Art 575(1) CCP

19. Finally, in his analysis of the art 575(1) CCP criterion,[18] the Application Judge erred in law by emphasizing the differences between the putative Class Members rather than acknowledging at least one common identical, similar, or related issue of law or fact;

20. The Supreme Court of Canada has insisted that this is a reviewable error in law;[19]

21. The Appellant intends to demonstrate that:

    (1) the Application Judge erred by adopting a strict approach to the common interest that must exist amongst class members, including by requiring a common answer to the first proposed common issue;[20]

    (2) the Application Judge erred by requiring that the common issues predominate over the individual issues;[21]

    (3) the Application Judge erred by applying the test of whether there is an identical, similar, or related issue of law or fact that can advance the action in a not insignificant manner[22] to common questions that the Appellant did not propose (namely, whether the Class Members were governed by the same contracts and guidelines, and whether these contracts contained clauses that "control" the Class Members, such as a termination clause for failure to comply with certain standards) rather than to the common issues the Appellant proposed, particularly the first proposed common issue;[23]

    (4) the Application Judge incorrectly concluded that the array of criteria that must be considered by the Court to determine a person's employee status

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[18] Judgment of First Instance at paras 87-100.
[19] *L'Oratoire*, *supra* note 17 at para 20.
[20] Judgment of First Instance at para 89; *Asselin*, *supra* note 13 at paras 84-85: the art 575(1) CCP criterion requires not a common answer but a common question.
[21] *Asselin*, *supra* note 13 at paras 25, 85.
[22] *Ibid* at para 85; *Vivendi Canada Inc v Dell'Aniello*, 2015 SCC 1 at para 58.
[23] Judgment of First Instance at para 89.

under the *Act* makes analysis on a collective basis impossible due to variations in the factual situations of the putative Class Members;[24]

(5) the Application Judge ignored that the Service Agreements are standard-form contracts (not negotiated), and that accordingly, a search for the intention of the parties in the surrounding circumstances is illusory or a mere legal fiction;

(6) the Application Judge failed to consider appellate case law demonstrating that standard-form contracts can be interpreted on a collective basis;[25]

(7) the Application Judge incorrectly concluded that the decisions in parallel class actions in Ontario and Alberta recognizing the existence of common issues[26] were based on different, less stringent law,[27] when in fact, the "commonality" test in common law provinces is more stringent than the one applied in Québec, and the common law test to determine whether someone is an employee, as opposed to an independent contractor, (the *Sagaz* test) is substantially the same as the test applicable in Québec;[28]

(8) the Application Judge misunderstood "heavily fact dependent" to mean highly individual;[29]

(9) had he focussed on acknowledging at least one common issue rather than on the possible differences between putative Class Members, the Application Judge would have seen that the first proposed common issue (asking whether the predominate features of the Respondents' business model – including the operation of the App and its underlying algorithms –

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[24] *Ibid* at para 95.
[25] See e.g. *9369-1426 Québec inc (Restaurant Bâton Rouge) c Allianz Global Risks US Insurance Company*, 2021 QCCA 1594.
[26] *Heller v Uber Technologies Inc*, 2021 ONSC 5518 at para 190; *Virani*, *supra* note 11 at paras 52, 60-61, 64.
[27] Judgment of First Instance at para 93.
[28] *L'Oratoire*, *supra* note 17 at paras 43-44, 55; *671122 Ontario Ltd v Sagaz Industries Canada Inc*, 2001 SCC 59; *97980 Canada inc c Québec (Sous-ministre du Revenu)*, 2005 QCCA 404 at paras 1-2.
[29] Judgment of First Instance at para 94.

and relationship with the Class Members lead to a finding that the Class Members are their employee) is a common issue;[30]

(10) the Judgment of First Instance contains contradictions regarding the commonality that exists amongst the putative Class Members;[31]

(11) the Appellant has met the art 575(1) CCP criterion;

22. The Appellant also intends to demonstrate that Application Judge incorrectly implied that some putative Class Members could be employees and others independent contractors, depending on their personal reasons for using the Uber App as a driver or delivery person and/or their personal consideration of their status alone,[32] which cannot be. At no point did, or do, the Respondents suggest that some putative Class Members could be employees and/or that their status could vary according to the putative Class Members' personal reasons for using the Uber App and/or their personal consideration of their status. Furthermore, these factors are not determinative;[33]

23. This error in law is overriding. As a result of this error, the Application Judge incorrectly concluded that the Appellant had not met the art 575(1) CCP criterion, that the class action claims of the putative Class Members raise identical, similar or related issues of law or fact;[34]

Errors of Fact and Law with Respect to Art 575(2) CCP

24. The Application Judge erred in fact and law by stating, in *obiter dicta*, that the Court could not consider the question of the nullity of the New Arbitration Clause because the Appellant had opted out of it;[35]

25. The Appellant intends to demonstrate that:

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[30] *Ibid* at para 88.
[31] For example, Judgment of First Instance at paras 89, 91, 92, 94-95, 97-98 versus Judgment of First Instance at paras 8, 43,-44, 76, 88, citing Authorization Application at paras 13(j.2), 13(w), 35, 35.1, 36, 37.1.
[32] *Ibid* at paras 96-97.
[33] *9095-3532 Québec inc (La Capitale Saguenay—Lac-St-Jean) c Daigle*, 2010 QCCS 6066 at paras 51-54, leave to appeal to the CA refused, *Fortin c 9085-3532 Québec inc*, 2011 QCCA 129.
[34] Judgment of First Instance at paras 87, 100.
[35] *Ibid* at para 84.

(1) despite having opted out of the New Arbitration Clause, the Appellant had a direct and personal interest to contest its validity;

(2) the Appellant received the amendments to the Service Agreement, including the New Arbitration Clause, through the App, like all putative Class Members, and is familiar with the New Arbitration Clause and its impact on putative Class Members, especially after actively participating in the *Virani* Action;[36]

(3) the Appellant pleaded sufficient facts to demonstrate her personal claim;[37]

(4) even though the Appellant opted out of the New Arbitration Clause, the clause still applied to her in part;[38] so, she should be entitled to ask the Court to declare it null; and,

(5) the Application Judge erred by adopting a restrictive and literal interpretation of the Appellant's allegations in the Authorization Application, rather than the flexible, liberal, and generous approach required when determining whether the authorization criteria are met;[39]

26. This error is overriding. As a result of this error, the Application Judge incorrectly concluded that the Appellant did not have an arguable case regarding the nullity of the New Arbitration Clause.

27. Furthermore, this error allows the Respondents to immunize their New Arbitration Clause, which contravenes rules of public order, from judicial scrutiny.

IV — CONCLUSIONS

28. The Appellant will ask the Court of Appeal to:

(1) **ALLOW** the appeal;

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[36] Exhibit U-3, Affidavit of Maral Yeretzian, Affirmed May 24, 2022 at paras 3-4 (**Schedule 4**); Exhibit P-4 (**Schedule 5**); Authorization Application at paras 22-25.
[37] Authorization Application at paras 22-30.
[38] For example, s 15.6(c) of the New Arbitration Clause states that the Appellant's decision to opt out of the New Arbitration Clause does not affect any obligation she has to arbitrate disputes pursuant to any other agreement she has with the Respondents, and s 15.6(b) of the New Arbitration Clause states that the Appellant will not be subject to retaliation if she exercises her right to opt out of the New Arbitration Clause.
[39] *Asselin*, *supra* note 13 at para 29.

(2) **SET ASIDE** the judgment in first instance rendered on May 27, 2025, by the Honourable Donald Bisson, JCS, which dismisses the *Amended Application for Authorization to Institute a Class Action and to Obtain the Status of Representative*;

(3) **GRANT** the Appellant's *Amended Application for Authorization to Institute a Class Action and to Obtain the Status of Representative*

(4) **AUTHORIZE** this class action as follows:

> An action for damages based on breaches of the *Act Respecting Labour Standards* and breaches of contract;

(5) **APPOINT** the Appellant, Maral Yeretzian, as representative of the Class herein described as:

> All persons who used the Uber App to transport passengers and/or provide delivery services in Québec pursuant to Service Agreements with Uber;

(6) **IDENTIFY** the principal questions of law and fact to be dealt with collectively as being the following:

(a) Do the predominate features of Uber's business model – including the operation of the App and its underlying algorithms– and relationship with the Class Members lead to a finding that the Class Members are Uber's employees?

(b) Do the minimum requirements of the *Act Respecting Labour Standards* with respect to minimum wage, overtime pay, vacation pay, and public holiday pay constitute implied terms of the contracts with the Class Members?

(c) Does Uber owe contractual duties and/or statutory obligations to ensure that Class Members were compensated for minimum wage, overtime pay, vacation pay, and public holiday pay?

(i) If the answer to common issue (c) is "yes," did Uber fail to pay the Class Members minimum wage, overtime pay, vacation pay, and/or public holiday pay as required by Uber's contractual duties and/or statutory obligations pursuant to the *Act Respecting Labour Standards*?

(d) Are the New Arbitration Clause and/or class action waiver clause implemented by Uber on or around August 26, 2020 unenforceable on the basis that they, *inter alia*,:

(i) are contrary to the *Act Respecting Labour Standards*;

(ii) breach principles of contract formation; and/or,

(iii) are abusive clauses?

(7) **IDENTIFY** the conclusions sought by the class action as being the following:

(a) **GRANT** the Appellant's action against the Respondents on behalf of all Class Members;

(b) **DECLARE** that the Respondents are liable to the Class Members for the following:

(i) breach of the *Act Respecting Labour Standards*; and,

(ii) breach of contract;

(c) **CONDEMN** the Respondents, solidarily, to pay to the Appellant and each Class Member an amount for pecuniary damages, to be determined at trial, as well as interest at the legal rate and the additional indemnity provided for at article 1619 of the *Civil Code of Québec*, from the date of service of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative;

(d) **ORDER** collective recovery of the claims for pecuniary damages for all Class Members and individual liquidation of the claims of Class Members in accordance with articles 595 to 598 of the *Code of Civil Procedure*, or, alternatively, the individual recovery of claims for

pecuniary damages for all Class Members in accordance with articles 599 to 601 of the *Code of Civil Procedure*;

(e) **THE WHOLE** with judicial costs, including fees for notices and experts;

(8) **DECLARE** that any Class Member who has not requested his/her/their exclusion from the Class be bound by any judgment to be rendered in the class action, in accordance with the law;

(9) **FIX** the deadline for exclusion at sixty (60) days from the date of the notice to Class Members, at the expiry of which Class Members who have not requested their exclusion will be bound by any judgment to be rendered;

(10) **ORDER** the publication of a notice to Class Members in accordance with arts 576 and 579 CCP, pursuant to a further order of the Court of first instance;

(11) **REFER** to the Court of first instance to determine the form and content of the notice to the Class Members, and its manner of publication, in accordance with art 603 CCP;

(12) **ORDER** that the class action be tried in the judicial district of Montréal;

(13) **CONDEMN** the Respondents to pay the legal costs of the Appellant both in first instance and on appeal.

This Notice of Appeal has been notified to the Respondents, to M^{e} Sylvie Rodrigue, M^{e} Corina Manole, and M^{e} Marie-Ève Gingras of Torys LLP, lawyers representing the Respondents in first instance, and to the Office of the Superior Court of Québec, District of Montréal.

Signed on June 23, 2025, in London, ON.

Chelsea Smith

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Within 10 days after notification, the respondent, the intervenors and the impleaded parties must file a representation statement giving the name and contact information of the lawyer representing them or, if they are not represented, a statement indicating as much. If an application for leave to appeal is attached to the notice of appeal, the intervenors and the impleaded parties are only required to file such a statement within 10 days after the judgment granting leave or after the date the judge takes note of the filing of the notice of appeal.

The lawyer who represented the respondent in first instance, if no longer acting for the respondent, must so inform the respondent, the appellant and the office of the Court of Appeal without delay (art 358, paras 2 and 3 CCP).

No.:
No.: 500-06-001238-233

COURT OF APPEAL OF QUÉBEC
DISTRICT OF MONTRÉAL

MARAL YERETZIAN

APPELLANT PARTY - Plaintiff

v.

UBER PORTIER CANADA INC., et al

RESPONDENTS – Defendants

NOTICE OF APPEAL
Appellant
Dated June 23, 2025

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If a party fails to file a representation statement or a non-representation statement, it shall be precluded from filing any other pleading, brief or memorandum in the record.

The appeal shall proceed in the absence of such a party, without the clerk being required to notify it in any way.

If the representation statement or non-representation statement is filed late, it shall be accepted subject to such conditions as the clerk may determine (s 38 of the Regulation of the Court of Appeal of Québec in Civil Matters).