

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
No.: 500-06-000756-151

SUPERIOR COURT
(CLASS ACTION)

DAVID HURST

Plaintiff/Representative

vs.

AIR CANADA

Defendant

**NOTICE TO MEMBERS
(COMPLETE TEXT)**

1. **TAKE NOTICE** that on January 27, 2017, a class action was authorized by judgment of the Honourable Madam Justice Pepita G. Capriolo of the Superior Court of Québec on behalf of all individuals forming part of the group hereinafter described:

All “consumers” within the meaning of the *Consumer Protection Act*, in Canada, who between August 25, 2015 and August 28, 2015:

- a) purchased, received and/or acquired a Flight Pass from Air Canada’s Internet website, which consisted of credits for ten one-way business class flights in the Western USA and/or Canada (the “Flight Pass”); and
- b) had their Flight Pass delivered to their Air Canada Internet website account and subsequently removed from their Internet website account by Air Canada.

Hereinafter referred to as the “**Class.**”

2. The class action authorized by this judgment shall be exercised in the District of Montréal.
3. The status of representative for this class action has been granted to **David Hurst.**

4. The address of the Plaintiff/Representative **David Hurst** is:

c/o Evolink Law Group
4388 Still Creek Drive, Suite 237
Vancouver, British Columbia V5C 6C6

and

c/o Champlain Avocats
1434 Sainte-Catherine Street West, Suite 200
Montréal, Québec H3G 1R4

5. The address of the Defendant **Air Canada** is:

7373 Côte-Vertu Boulevard West
Ville Saint-Laurent, Québec H4S 1Z3

6. The principal questions of fact and law to be treated with collectively are the following:

- a. Did Air Canada contravene Article 224(c) of the Québec *Consumer Protection Act* (“CPA”)?
- b. Does Air Canada’s conduct alleged in paragraphs 29–35 of the “*Amended Application for Authorization to Institute a Class Action*” contravene Article 219 of the CPA?

- c. Did Air Canada fail to perform its obligations under the contract for Flight Pass(es) with each member of the Class?
- d. Are the Class Members entitled to compensatory damages from Air Canada, consisting of:
 - i. a monetary amount estimated to be \$7,200 plus taxes per Class Member which represents the difference between the Flight Pass purchase price agreed upon by the Defendant and a Class Member and the price that the Defendant claims the Flight Pass to be worth;
 - ii. the amount of \$500 in punitive damages per Class Member; and
 - iii. the interest and additional indemnity set out in the *Civil Code of Québec* on the above amounts, from the initial date of purchase of the Flight Pass.

7. The conclusions sought in relation to these questions are the following:

GRANT the class action of the Plaintiff and each of the Class Members;

DECLARE Air Canada liable for the damages suffered by the Plaintiff and each of the members of the Class;

CONDEMN Air Canada to pay an amount in compensatory damages to each member of the Class, in an amount to be determined by the Court, plus interest as well as additional indemnity, under Article 1619 of the *Civil Code of Québec* ("CCQ"), since the date of purchase;

CONDEMN Air Canada to pay an amount in punitive and/or exemplary damages to each member of the Class, in an amount to be determined by the Court, with interest as well as the additional indemnity, under Article 1619 of the CCQ;

CONDEMN Air Canada to bear the costs of the present action including expert, expertise and notice fees;

ORDER that the above three condemnations be subject to collective recovery;

RENDER any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

DECLARE that all members of the Class that have not requested their exclusion from the Class in the prescribed delay are bound by any judgment rendered in the class action;

THE WHOLE with interest and additional indemnity provided for in the CCQ and with full costs and expenses including publication fees to advise members and expert fees, if any, including those required to establish the amount of the orders for collective recovery.

8. The class action to be exercised by the Representative for the benefit of the members of the Class will be an action for compensation and for punitive damages.
9. Any member of the Class who has not requested his or her exclusion in the manner set out below will be bound by the judgment to be rendered in the class action.
10. The date after which a member may no longer be excluded without special permission has been fixed as **Friday, September 8, 2017, at 5:00 P.M. Eastern Time.**
11. A member who has not as yet brought a personal action may be excluded from the Class by advising the Clerk of the Superior Court of the District of Montréal by registered mail before the expiry of the delay for exclusion.
12. Any member of the Class who has brought an action in the Québec courts which the final judgment in the class action would decide is

deemed be excluded from the Class if he or she does not discontinue the said Québec court action before the expiry of the delay for exclusion.

13. A member of the Class other than a Representative or an Intervenor cannot be condemned to pay the costs of the class action.
14. The Court may permit a member to intervene if it considers such intervention useful to the Class. An intervening member is bound to submit to an examination on discovery at the request of the Defendant. A member who does not intervene in the class action may not be required to submit to an examination on discovery unless the Court considers it necessary.

Montréal, Québec, **June 20, 2017**

**THE ATTORNEYS FOR THE
PLAINTIFF/REPRESENTATIVE DAVID HURST**

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**THE PUBLICATION OF THIS NOTICE HAS BEEN APPROVED BY THE
COURT.**