

Court of Queen's Bench of Alberta

Citation: Macaronies Hair Club and Laser Center Inc. v BofA Canada Bank, 2021 ABQB 986

Date: 20211210
Docket: 1203 18531
Registry: Edmonton

Between:

Macaronies Hair Club and Laser Center Inc., Operating as Fuze Salon

Plaintiff

- and -

BofA Canada Bank, Bank of Montreal, Bank of Nova Scotia, Canadian Imperial Bank of Commerce, Capital One Bank (Canada Branch) Citigroup Inc., Federation Des Caisses Desjardins Du Quebec, Mastercard International Incorporated, National Bank of Canada Inc., Royal Bank of Canada, Toronto-Dominion Bank and Visa Canada Corporation

Defendants

**Reasons for Decision
of the
Associate Chief Justice
J.D. Rooke**

[1] This Decision (in this Alberta Proceeding) should be read in conjunction with the Reasons for Judgment of Justice G.C. Weatherill (Weatherill Decision), in *Coburn et al v. Bank of Montreal et al* 2021 BCSC 2398 (the British Columbia Proceeding), which was the lead case in the five class actions identified therein, relating to the Final Settlement between the Representative Plaintiffs, on behalf of class members, with the five Defendants remaining (Remaining Defendants) after some previous settlements (Earlier Settlements) in relation to

claims arising from “interchange fees” paid by merchants when processing payments for goods or services via Visa and/or MasterCard credit cards.

[2] As noted in the Weatherill Decision, a panel of five Justices from the respective jurisdictions across Canada heard, in joint hearing, the separate but substantially identical application for approval of the Final Settlement in these national class action proceedings on December 6, 2021. The Weatherill Decision certified for settlement purposes and approved the Final Settlement, the Distribution Plan for the Total Net Settlement, Class Counsel fees and disbursements, and ancillary orders relating to Notices and the appointment of the Claims Administrator and the Notice Administrator, all as sought by Class Counsel, in the form of the Order set out in the Application Record for each proceeding, with a couple of minor exceptions (holdback amount and honorarium fees). I come to the identical decision herein. The Weatherill Decision also dealt with matters related to the Representative Plaintiffs in British Columbia, which I need not address.

[3] Simply put, I endorse and adopt the defined terms, the reasoning and the conclusions in the Weatherill Decision. *mutatis mutandis*, as is applicable to the facts pertinent to the Alberta Proceeding and need add very little else, with one exception. I would add that, as the Weatherill Decision identifies in para 2, the British Columbia Proceeding was, by agreement of all parties and the five Courts, the lead action, and Weatherill J. is thus the closest to the details of the class action, as he has presided over the British Columbia Proceeding since 2014, while the other Canadian Proceedings effectively stood down in considering the merits of the case, other than considering approval applications for the Earlier Settlements. Thus, in my view, he is in the best position to make the findings he does not only specifically pertinent to the British Columbia Proceedings, but which I accept fully and adopt as applicable to the Alberta Proceeding, based on my reliance on his experience and judgment, the application record and my own history with these proceedings.

[4] Class Counsel may present final copies of Orders for the Court’s execution as sought in the Application Record, as amended by the Weatherill Decision, endorsed herein.

Heard on the 6th day of December, 2021.

Dated at the City of Edmonton, Alberta this 10th day of December, 2021.

J.D. Rooke
A.C.J.C.Q.B.A.

Appearances:

R. Mogerman, Q.C., L. Brasil, C. Hermanson and R. Egit
for the Plaintiff

G. Cowper, Q.C. and D. Royal
for all Defendants except National Bank of Canada Inc. and Visa Canada Corporation

A. Brylowski
for National Bank of Canada Inc.

R. Kwinter
for Visa Canada Corporation

J.B. Simpson and J. Musgrove
for previously settled defendant, MasterCard International Incorporated

P. Dionne-Bourassa
for Bank of America Corporation