

## **Are you a former Aveos employee?**

**Are you a defendant in the *Thimothy J. Bernlohr et al. c. Les anciens employés d'Aveos et al.* proceeding before the Federal Court, file number T-1290-18 ?**

### **A CLASS ACTION COULD AFFECT YOU. PLEASE READ THIS NOTICE CAREFULLY.**

On June 20, 2019, the Honourable Associate Chief Justice of the Federal Court Jocelyne Gagné certified as a defendant class proceeding the judicial review opposing Aveos' ex-directors to Aveos' former employees in file T-1290-18.

#### **DESCRIPTION OF THE PROCEEDING**

Former directors of Aveos Performance Aéronautique inc. oppose Arbitrator Pierre Flageole's decision ordering them to pay Aveos' former employees sums owed to them due to their employment at Aveos. For this purpose, Gilbert Mc Mullen was authorized to represent all of the defendants in the proceeding except the defendants who will have excluded themselves under the exclusion procedure described below and the defendants who are already represented by lawyers in this file.

#### **WHO ARE THE MEMBERS OF THE CLASS PROCEEDING?**

You are a class member if you are a defendant in the *Thimothy J. Bernlohr et al. c. Former employees of Aveos et al.* case before the Federal Court, file T-1290-18 and you are not represented by counsel in this case.

The person authorized to represent the class members is Gilbert Mc Mullen, c/o M<sup>e</sup> André Lespérance, Trudel Johnston & Lespérance, 750 Place d'Armes, Suite 90, Montreal, QC H2Y 2X8.

#### **YOU HAVE NOTHING TO DO TO BENEFIT FROM THE CLASS PROCEEDING**

You are automatically included in the class proceeding. You have no form to complete at the moment, nor any fees to pay. By being a member of the class proceeding, you are represented by the attorneys of the representative defendant, who act for free for the purpose of this action. If the judicial review was decided in favour of the class members, you could receive amounts owed to you as salary and other amounts to which you might be entitled due to your employment with Aveos.

#### **YOU HAVE THE RIGHT TO OPT OUT OF THE CLASS PROCEEDING IF YOU WISH TO**

You have up to August 26, 2019 to opt out from the class proceeding. If you do not opt out from the class proceeding, you will be represented by the representative defendant, Gilbert

Mc Mullen, and will be bound by any judgment to intervene on the plaintiffs' application for judicial review, regardless of the outcome of the action.

To opt out, you must send a letter to the Federal Court Registry at the following address:

30 McGill Street, Montreal, (Quebec) H2Y 3Z7

You must specify the file number, T-1290-18.

You must also send a copy of this letter to the lawyers representing the members at the address indicated below.

### **THE MAIN ISSUES TO BE TREATED COLLECTIVELY**

The judgment on authorization identified the main issues that will be decided collectively for the purposes of the class proceeding as follows:

- a. Did Arbitrator Flageole make a correct or reasonable decision in concluding that claims made through payment orders issued under Part III of the *Canada Labor Code* were not prescribed or time-limited when the said payment orders were issued on April 5, 2017?
- b. Did Arbitrator Flageole make a correct or reasonable decision by stating that the inquiry notices issued by Inspector Amélie Hillman on December 17, 2013, and sent to each of the plaintiffs, have the effect of suspending the prescription for the benefit of all the defendants?
- c. Did Arbitrator Flageole make a reasonable decision in finding that the plaintiffs are liable for the payment of amounts that some defendants could have recovered under the *Wage Earner Protection Program Act*?
- d. Did Arbitrator Flageole make a reasonable decision by partially confirming the method of calculation used by Inspector Amélie Hillman to determine the amount owed to each employee?
- e. Did Arbitrator Flageole make a reasonable decision stating that it is the date, not the time, of the director's resignation that must be taken into account to determine their liability related to the termination of the defendants' employment?
- f. Did Arbitrator Flageole make a reasonable decision in declaring that the decision to dismiss the defendants was taken during the directors' incumbency?
- g. Did Arbitrator Flageole make a reasonable decision by partially dismissing the plaintiffs' appeal?

### **THE CONCLUSIONS SOUGHT**

The following are the conclusions that the representative defendant will seek for the benefit of the class members:

**DISMISS** the applicants' application for judicial review;

**CONFIRM** arbitrator Pierre Flageole's decision rendered on June 7, 2018;

**CONFIRM** the final payment orders issued by Inspector Amélie Hillman on April 5, 2017, and modified by Arbitrator Flageole's decision dated June 7, 2018, against the plaintiffs Timothy J. Bernlohr, John C. Charles, Eugene I. Davis, Todd Dillabough, Joseph C. Kolshak, Sean Menke, Michael Rousseau and Donald E. Thomas, for the benefit of the defendants;

**THE WHOLE**, with costs and expenses.

#### **PARTICIPATION AT THE HEARING**

As a member and to ensure that the interests of the group are fairly and adequately represented, you can seek leave of the Federal Court if you wish to participate in the class proceeding hearings, for example, to make representations before the court.

#### **FOR MORE INFORMATION**

If you think you are a member of the class proceeding and wish to receive information on the progress of the file, **you can subscribe** to our mailing list by completing the form on the Trudel Johnston & Lespérance website (<http://tjl.quebec/en/class-action/aircanada/>), or **contact** the attorneys of the members at the following:



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