

CANADA  
PROVINCE OF QUEBEC  
District of Québec  
No. 200-06-000179-146

**(Class action)**  
**SUPERIOR COURT**

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SOCIÉTÉ QUÉBÉCOISE DE GESTION DES  
DROITS DE REPRODUCTION (COPIBEC)

REPRESENTATIVE PLAINTIFF

AND GUY MARCHAND

SECOND REPRESENTATIVE

AND

JEAN FRÉDÉRIC MESSIER

THIRD REPRESENTATIVE

-v.-

UNIVERSITÉ LAVAL

DEFENDANT

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NOTICE TO MEMBERS

(Code of Civil Procedure, article 579)

1. TAKE NOTICE that a class action was authorized on February 8, 2017 by judgment of the Honorable Justices Guy Gagnon, Dominique Bélanger and Robert M. Mainville, of the Court of Appeal of Quebec, on behalf of the natural and legal persons (individuals and legal entities) forming part of the class described as follows:

*All natural or legal persons that own or are authorized to represent one or more owners of patrimonial and moral rights in a literary work (except computer programs, but including song lyrics), a dramatic work or an artistic work (integrated into a literary or dramatic work) whose author did not die prior to January 1, 1964, that Université Laval and its employees, its mandataries and its subcontractors, have, without permission from the copyright owners, reproduced, made available or communicated by telecommunication to students or to its employees, in paper or digital format, as part of all of the teaching and research activities of Université Laval from June 1, 2014 up until the date of the Court of Appeal decision (February 8, 2017).*

2. Within that class, the following subclasses have also been defined:
  - A) All natural persons, part of the described class, who are authors of literary, dramatic or artistic works in Canada.
  - B) All natural or legal persons, part of the described class, that are publishers of literary or dramatic works or that are authorized to represent one or more copyright owners in Canada.
  - C) All natural or legal persons, part of the described class and domiciled outside of Canada, including foreign reproduction rights organizations or copyright collectives authorized to represent copyright owners in their respective country.
3. The authorized class action will be exercised in the judicial district of Quebec, Quebec, Canada, where the defendant Université Laval has established its head office.
4. a) The address of the representative plaintiff is as follows:

SOCIÉTÉ QUÉBÉCOISE DE GESTION COLLECTIVE DES DROITS DE  
REPRODUCTION (COPIBEC)

810-606 Cathcart Street

Montreal, QC, Canada H3B 1K9

Attn: Frédérique Couette, Executive Director

Phone: 514-288-1663 or 1-800-717-2022

Email: [actioncollective@copibec.ca](mailto:actioncollective@copibec.ca)

Website: <http://www.copibec.ca/en/class-action-against-universite-laval>

b) The address of the defendant is as follows:

UNIVERSITÉ LAVAL

2325 rue de l'Université

Québec, Quebec, Canada G1V 0A6

Attn: Secrétaire général

5. In addition to the appointment of a representative for the entire class, authors Guy Marchand and Jean Frédéric Messier have also been granted representative status.
6. The questions of fact and law that will be addressed collectively are the following:
  - (l) Did the defendant Université Laval and its employees, its mandataries and subcontractors, in their teaching and research activities, infringe the class members' patrimonial rights under section 3 of the *Copyright Act*
    - (a) by reproducing,
    - (b) by communicating to the public by telecommunication,

(c) including making available to the public by telecommunication

copyrighted literary, dramatic and artistic works without permission from the copyright owners or their representatives?

(II) Did Université Laval and its employees, its mandataries and its subcontractors, in their teaching and research activities, infringe the moral rights of the class members who are authors under section 14.1 of the *Copyright Act*

(a) by reproducing,

(b) by communicating to the public by telecommunication,

(c) including making available to the public by telecommunication

copyrighted literary, dramatic, artistic and musical works' excerpts without permission from the authors or their representatives?

7. The class action to be exercised by the representatives on behalf of the class members will consist of an application for a permanent injunction and a claim for material, moral and punitive damages.
8. The conclusions sought in relation to these questions are the following:

*RULE IN FAVOUR of the Plaintiffs in this CLASS ACTION on behalf of and for the benefit of all class members.*

*ORDER the defendant Université Laval, its administrators, its mandataries, its subcontractors, and its employees, including all professors, associate professors, lecturers, and clinical medicine lecturers, to cease: (i) reproducing, in paper or digital format; (ii) making available and (iii)*

*communicating by telecommunication on its computer network or otherwise, all copyrighted literary, dramatic and artistic works of the class members without having obtained, beforehand, the necessary permissions.*

*ORDER the defendant Université Laval, its administrators, its mandataries, its subcontractors and its employees, including all professors, associate professors, lecturers and clinical medicine lecturers, to provide to the representative plaintiff, within thirty (30) days of the forthcoming judgment, all collective works of texts or any other document in paper or digital format, and any device or local storage medium containing copyrighted literary, dramatic and artistic works of the class members, or parts thereof.*

*ORDER the defendant Université Laval to provide to the representative plaintiff, within thirty (30) days of the forthcoming judgment, a sworn attestation from its Rector to the effect that it has removed from its servers and networks all the copyrighted literary, dramatic and artistic works of the class members, or parts thereof, reproduced without the necessary permissions.*

*ORDER the defendant Université Laval to reimburse the representative plaintiff Copibec all costs incurred in destroying, by pulping or other reasonable means, the counterfeit material within fifteen (15) days of the communication of supporting documents.*

*ORDER the defendant Université Laval to make known to its employees, within five (5) days of the forthcoming judgment, the injunctions rendered by the Court by individualized letter to each and by message on its intranet and on its website, asking the members to comply with it.*

*AUTHORIZE THE COLLECTIVE RECOVERY of sums destined to the class members and EMPOWER the representative*

*plaintiff Copibec to receive them and distribute them among the qualifying class members according to its bylaws and usual practices.*

*AUTHORIZE the representative plaintiff Copibec to retain, as an administrative fee for its management role, a commission of fifteen percent (15%) of the sum to be distributed.*

*CONSEQUENTLY, CONDEMN the defendant Université Laval to pay Copibec, for the benefit of the class members and to distribute among the class members whose works have been reproduced illicitly, the following damages:*

- (A) A sum, which may be adjusted upwards, of \$1,682,675.85 (representing 11,217,839 pages copied at the rate of 15¢ per page reproduced) per academic year, less the sum already paid by the defendant for authorized copies as determined by the defendant;*
- (B) An additional sum of \$15 per student for continuing education and distance education, in which 20,000 persons were registered according to the figures published by the defendant, representing an estimated sum, which may be adjusted upwards, of \$300,000 per academic year;*
- (C) A sum of \$1,000,000 as exemplary damages.*

*CONDEMN the defendant Université Laval to pay Copibec, for the benefit of the class members and to distribute among them, all the profits made from the sale of collective works of texts used in the courses and by illicitly reproducing literary, dramatic and artistic works of the class members, calculated at an estimated rate, which may be adjusted upwards, of \$10 per collective work and per course,*

*representing an additional estimated sum, which may be adjusted upwards, of \$120,000 per academic year.*

*CONDEMN the defendant Université Laval to pay Copibec, for the benefit of the class member authors and to distribute the monies among the authors whose works were reproduced illicitly, an additional sum of \$1,000,000 for the infringement of their moral rights.*

*CONDEMN the defendant Université Laval to reimburse to Copibec and the Fonds d'aide aux actions collectives, in addition to legal fees and costs, the extrajudicial fees and lawyers' disbursements, as well as all the extrajudicial fees incurred for the class action of the class represented, including all publication costs in the media, all experts' fees, all reasonable travel expenses and, where applicable, all reasonable travel expenses for witnesses from abroad.*

*ORDER the collective recovery and execution notwithstanding an appeal.*

*THE WHOLE with interest starting from the notification of the application for leave, plus the additional indemnity of the Civil Code of Québec, except starting from the judgment for exemplary damages and for legal fees and costs incurred.*

9. Any class member may be an intervenor in the class action with the court's permission but may only support the application.
10. Any class member who does not opt out in the manner set out below will be bound by the judgment to be rendered in the class action.
11. October 16, 2017 has been set as the date after which a class member may no longer opt out of the class without special permission from the Court.

12. A class member who has not yet brought a personal action may opt out of the class by sending the Clerk of the Superior Court for the district of Québec a written notice confirming that he or she wishes to opt out of the class prior to the opting-out deadline, namely October 16, 2017. The notice must be sent to the following address:

Superior Court Registry  
Palais de justice de Québec  
300, boul. Jean Lesage  
Québec, Quebec, Canada, G1K 8K6

13. Any class member who has brought an action which the final judgment in the class action would decide is deemed to have opted out of the class if he or she does not discontinue said action prior to the specified opting-out deadline.
14. A class member other than a representative or intervenor cannot be ordered to pay the legal costs of the class action.

AT LÉVIS, ON SEPTEMBER 7, 2017.

PAYETTE AVOCATS

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Legal Counsel for the Representative

Plaintiff and Class Representatives