

C a n a d a
Province of Québec
District of Montréal

C o u r S u p é r i e u r e
(Civil Division)

Nº: 500-05-059435-006

KATHLEEN MOORE (aka Kathy Maur),

Plaintiff-PETITIONER,

Régie du logement case-files:

N °: 31-000531-061-G

N °: 31-000215-071-G

N °: 31-000215-071-J-000331

N °: 31-000215-071-T-000629

-vs.-

**LA PROCUREUR GÉNÉRAL
DU QUÉBEC, es qualité the Régie du
logement and Maître Christine**

Evocation case-file:

Bissonnette,

Nº: 500-05-061581-003

Eviction Execution case-file:

-et als-

Nº: 500--02-089609-007

Co-Défendants.

Second Evicgtion case-file:

(All jointly and severally)

N °: 31 010430 072 T 010626

Defendants-

RESPONDENTS

N °: 31 010430 072 T 010626

**MOTION OF PLAINTIFF TO RATIFY
THE UNILATERAL “*DESISTEMENT DE COMPARUTION*”
OF THE PROCUREUR GÉNÉRAL, ES QUALITÉ
(Arts. 2, 5, 20, 46, 249, 263 C.c.p.)**

**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT,
SITTING IN THE PRACTICE DIVISION IN AND FOR THE**

DISTRICT OF MONTREAL, THE PLAINTIFF DOES SAY:

1. On **28 September 2000**, the Plaintiff herein transmitted a fax-letter to the attorneys of the Defendant Procureur général, refusing to comply with their illegal and null subpoena in virtue of article **397 C.C.P.**, on the grounds, *inter alia*, that it was:

(i) illegal;

(ii) unfair•forcing Plaintiff to choose between placing herself in contempt in her own file under a judge's ruling, or having her action dismissed for failing to comply with the said subpoena;

(iii) designed to harass the Plaintiff;

(iv) whilst the Defendant showed no intention of producing a defense; and moreover,

(v) set up a loophole for revocation by the Defendants; and

(vi) furthermore, in addition to the grounds set out in the said fax-letter, the said subpoena was dated **8 September 2000**, well before the expiry of delays on **15 September 2000**, but it scheduled the interrogatory for **28 September 2000**, a date well after the expiry of delays, without bothering to move for permission to proceed outside the delays;

(vii) *the whole only if the supposed delays were, in fact, thought by the*

Procureur général to commence to run on August 7, 2000 which does not make sense, given that the *Procureur général*, her two Defendants, and her attorneys would *all* have to had to fail to notice *for a period of a full fifty-two (52) days*, that neither of the Defendant clients had been served the Declaration and thus delays had not in fact commenced to run;

A true copy of the above-said fax-letter of **September 28, 2000** is attached herewith to form part hereof as though recited at length herein as **Exhibit R-1**;

2. In apparent response to the Plaintiff's above-said fax-letter, the *Procureur général* on **29 September 2000** used a *regular* messenger to slide an envelope under Plaintiff's apartment door, in her absence, and in the absence of any person whatsoever on the premises;

3. The said envelope contained an alleged proceeding and a cover letter from **Mtre. Lizann Demers**•the same attorney who had signed the illegal subpoena•in which letter **Mtre. Demers** describes the enclosure as being a "*désistement de comparution*," a true copy of said letter, proceeding and messenger's waybill being attached herewith to form part hereof as though recited at length herein *en liasse* under Plaintiff's **Exhibit R-2**;

4. Plaintiff has a right to demand that the said "*désistement de comparution*" be dismissed and denied for numerous reasons as shall become clear herebelow, however, Plaintiff asks instead that this Honourable Court **RATIFY** the said desistement to preserve all the Plaintiff's rights in her action as subsisted before the *Procureur général* appeared on **August 17, 2000** for the sole purpose of sabotaging the present file with an illegal subpoena, and when that did not fool the Plaintiff, then with the illegal *désistement de comparution*, so as to riddle the present file with loopholes as an excuse for any of the Defendants to invoke revocation;

5. The defects of the *Procureur général*'s "*Désistement de comparution*" include the fact that service was irregular, and that there is no such procedure as a unilateral "*Désistement de comparution*":

SERVICE WAS IRREGULAR:

6. (i) Paragraph 2, Article 263 C.C.P. provides that a **desistment** (and here we are speaking of Desistments in regard to proceedings *other* than appearances) has **no effect** unless it has been served upon the adverse party:

"Sauf s'il est fait à l'audience en présence de

la partie adverse, le désistement ne devient opposable à celle-ci que s'il lui a été signifié."

(ii) As for service, this is provided for as follows at Article **120**, C.C.P.:

"À moins d'une disposition expresse à l'effet contraire, un sheriff ou un huissier peut faire une signification partout au Québec."

(iii) While Article **123** C.C.P. reads as follows:

"Lorsque le destinataire n'est pas représenté par procureur, la signification de toute acte de procédure autre que la procédure introductive, peut se faire conformément à l'article 140."

(iv) Article **140** C.C.P. provides:

"La signification d'un acte de procédure, d'une pièce ou d'un autre document, au procureur d'une partie s'effectuer, sans autorisation du juge ou du greffier, en lui transmettant par télécopieur un fac-similé de cet acte, pièce ou document."

(v) Article **138** C.C.P. reads as follows:

"Si les circonstances l'exigent, le juge ou le greffier peut, sur requête, autoriser un mode de

signification autre que ceux prévus par les articles 120, 122, 123 et 130, notamment par avis public ou **par la poste...**";

7. There are no circumstances in the present instance which would allow for an an alleged "*Désistement de comparution*" to be served by messenger under the Plaintiff's door in her absence;

8. Though Plaintiff has not designated a fax number for receipt of services, there are sufficient bailiffs in Montreal and no doubt on retainer to the *Procureur général* who could have served the bizarre "*Desistment de comparution*" to this Plaintiff, in person, at her former address where she was then living on Decarie Boulevard;

9. In respect of Articles **123** and **140** C.C.P., and given the fact that the Defendant *Procureur général* may have hoped to pretend to [be] serving the Plaintiff by some form of "mail," as if Plaintiff were "not represented," Plaintiff states and maintains:

10. Plaintiff is acting as her *own attorney*, therefore she cannot be considered in terms of Article **123** C.C.P. as being "**not represented**;" thus, the provisions of Article **140** C.C.P. as to service do not apply, and Defendant was therefore bound to make service **by bailiff** according to Article **120** C.C.P. because Plaintiff has not provided a fax number on her court backs, therefore

service of this particular "proceeding" cannot be made in virtue of Article **140.1** C.C.P.;

11. Nonetheless, and for the sake of argument, since the Defendant *Procureur général* has gone out of her way to send a proceeding by messenger, under Plaintiff's door, without obtaining her signature or anyone else's, a review of Article **140** C.C.P. finds that service by **mail** is not accomplished in this manner anyway; it is made by mailing a copy of the proceeding by **registered mail** via Canada Post to the intended party;

12. Such service is deemed to have been made on the date when the "**acknowledg- ment of receipt "presented"** by the "**postman**" "**at the time of delivery**" was "**signed by the party himself**" or by one of the persons mentioned in Article **123** C.C.P.;

13. Whereas, Article **123** C.C.P. provides that "**Service of...any...written proceeding is made by leaving a copy of the proceeding for the person for whom it is intended... domiciliary service** may be made by leaving the copy at his domicile or residence, **with a reasonable person residing therein**";

14. Moreover, even if Article **140** C.C.P. did apply (and it does not), the Defendants still have defaulted, since:

(a) "an envelope sent by messenger is not **"registered mail"** and the **"messenger"** is not a "postman", since the (*Loi sur la Société canadienne des postes*, C-10 of the federal consolidated statutes, at Article **14**, reserves to Canada Post all rights in Canada to deliver the *"mail"*):

"...la Société a au Canada le privilège exclusif du relevage et de la transmission des lettres et de leur distribution aux destinataires."; and,

(b) the alleged proceeding **was not signed for by the Plaintiff** nor by any "reasonable person" "at the time of delivery," there being no one then present on the premises;

15. Furthermore, although the case law holds that mode of service is not a matter of *public order*, and that the provisions of law for this purpose can be renounced, **they can only be renounced, and formally at that, by the intended recipient** and not by the party pretending to serve the proceedings:

Huard vs. Bedford (Ville de) (1984) R.L. 226 (C.S.):

"...la Commission [de police] estime qu'il ne s'agit pas d'une disposition *d'ordre public* à laquelle une partie ne peut pas renoncer."

"Toutefois, cette disposition n'est pas d'ordre public et une partie peut y renoncer *en*

acceptant par exemple de recevoir une copie conforme pour valoir signification et autorisation de produire.”

Ibid., 223.

“L’appelant **a consenti formellement** à recevoir une copie conforme de la décision ***pour valoir signification.***”

Ibid., 223.

16. The Plaintiff herein ***expressly did not and does not accept nor consent to the irregular service*** of the alleged proceeding transmitted as first described above, *inter alia* because this would ratify the procedural defect of the Defendants’illegal subpoena and imply that Plaintiff also accepted the fact that the *Procureur général* had “accepted” service by renouncing her right to receive service of the Declaration by bailiff, which has yet to occur;

17. And, lawful service by bailiff as ordered by **Judge Morneau, s.c.j. on August 7, 2000**, has not yet occurred because the *Procureur général* has been obstructing *this* file with her illegal subpoena and her bogus “*désistement de comparution*” while assisting her client, the Régie du logement, in conspiracy with the landlord Conrad Arciero in the Plaintiff’s Book V Evocation file before this Court (Nº:500-05-061581-003), to obtain a **permanent injunction ordering curatelle of the Plaintiff to prevent her from suing this Government for the criminal acts of malicious prosecution and illegal eviction;**

18. The *Procureur général* has helped to facilitate the malicious prosecution and the illegal eviction of the undersigned by her client-Defendants and by Conrad Arciero then her illegal "*désistement de comparution*" to render the Plaintiff's motion , by appearing in this present file well before the delays for the sole purpose of depositing herein her illegal subpoena, and the her illegal "*désistement de comparution*" so as to:

(i) deny the Plaintiff her oen free amendment prior to service, knowing full well from demand letters sent to her client-Defendants in the intervening weeks in year 2000 that the present Declaration *had to be amended* to include additional damages; and

(ii) so as to render **invalid** the Plaintiff's **August 7th, 2001** motion to suspend the illegal eviction proceedings at the Régie du logement in virtue of Article **58**, *Loi sur la Régie du logement*, since a Declaration that has not been served is not an action nor an instance, and is therefore useless for the purpose of the Plaintiff's said Motion in virtue of Article **58**, L.R.L.;

19. The Procureur général es qualité the Régie du logement **did accomplish the illegal eviction** of the Plaintiff from the premises first contemplated in this present case-file, i.e., from 5832 Decarie Blvd., Apt. 303, Montreal, Quebec, H3X 2J5 on

January 26, 2001;

20. Plaintiff hereby invokes the nullity of service of the Procureur Général's "*désistement de comparution*" "*par exception à la forme*" and also repudiates the clear attempts of the Defendant *Procureur général* to confuse and trick the Plaintiff, who is a non-attorney, with a bizarre and illegal form of service in addition to a non-existent and illegal procedure:

a) "Selon un grand nombre de jugements, lorsque le défendeur a eu connaissance de la procédure émise contre lui, qu'il a comparu et qu'il l'a parfois contestée, les tribunaux refusent d'en prononcer l'annulation ou le rejet pour cause de signification irrégulière." [*Banque Laurentienne du Canada c. Gosselin*, (1994) R.J.Q. 2069 (C.Q.)];

b) "Le défendeur qui a eu connaissance de l'action intentée contre lui et l'a contesté dans les délais prescrits, ne peut par la suite prétendre que la signification était irrégulière." [*Procureur général du Québec vs. Duval*, [1975] C.A. 629.];

c) In view of the fact that "...son consentement exprès est confirmé par l'enclenchement des procédures...." [**Huard** vs. *Bedford (Ville de)* (1984) R.L. 223 (C.S.)], Plaintiff is therefore, again—a second time due to the procedural fraud of the Defendant Procureur général herein—*refraining* from proceeding to service of her Declaration in the present instance, which would: **(i)** have the effect of rubber-stamping the Defendants' illegal

withdrawal by irregular service, and prevent the Plaintiff from then subjecting their illegal subpoena to the scrutiny of the Court that it deserves, or, **(ii)** have the effect of setting up the case for revocation in virtue of default under Article **249**, C.C.P. or some other hidden trickery that the Defendant *Procureur général* may have in mind to undermine this Plaintiff's action;

d) Plaintiff must also, in virtue of Article **263** C.C.P., deem the illegal subpoena of the Defendant to be still in force and effect (*inter alia*) in the absence of valid service of their so-called “*Désistement de comparution*”, and therefore Plaintiff shall by separate motion (which will also suspend the illegal subpoena) request that said subpoena be cancelled and quashed;

THERE IS NO SUCH PROCEDURE AS A “DÉSISTEMENT DE COMPARUTION”

19. The *Procureur général* appeared “*es qualité*” the **Régie du logement**, and “*es qualité*” **Commissioner Maître Christine Bissonnette**, after which the *Procureur général* issued her illegal subpoena, notwithstanding the judgment of **Judge Morneau** on top in the file which on August 17, 2000 contained only three brief documents: **(i)** the Declaration; **(ii)** the motion for alternative mode; **(iii)** the judgment denying same, such that the subpoena, like the “*désistement de comparution*” cannot reasonably be presumed to be an “error”, but rather a deliberate assault on the Plaintiff's rights to due process;

20. As such, Defendant *Procureur Général* and her attorneys **Bernard Roy & Associés**, are both “*ad litem*” and their “*Désistementde comparution*” as issued on **29 September 2000** is **invalid** in virtue of Article **249**, C.C.P.,

which states as follows:

“**249.** Le procureur *ad litem* qui veut cesser d’occuper **doit en demander l’autorisation du tribunal**, *après avis* à la partie adverse et à celle qu’il représente.”

21. Plaintiff has a right to demand that the said “*désistement de comparution*” be dismissed and denied for default under the said Article **249**, C.C.P., however, Plaintiff asks instead that the unilateral désistement of the Procureur général es *qualité* the Régie du logement **BE RATIFIED** by this Honourable Court to preserve all of Plaintiff’s rights in her action as *subsisted before the Procureur général filed her appearance with intent to sabotage the file* by issuing her illegal subpoena, followed by her illegal “*Désistement de comparution*”);

22. Clearly, yhe “*Désistement de comparution*” was **purely tactical** and intended *inter alia* to allow the Defendants to evade answering for the questionable motives behind the issuance of their illegal subpoena, which at every turn, if not contested by Plaintiff by letter on **28 September 2000**, would have resulted in the dismissal or revocation of her action;

23. In light of its potential consequences, the said subpoena is therefore less likely to be an “error” than a self-serving tactic, contrary to the allegation by **Mtre. Demers** in her cover letter of **29 September 2000** (Exhibit R-2) to the “*Désistement de comparution*” alleging that “*une erreur s’est produite*”, which is also a tactic and not an error;

24. While it may be true at law that the filing of an appearance, in and of itself, does not imply that lawful service of the demand has transpired (*Robillard vs. Commission hydroélectrique de Québec*, (1954) R.C.S. 703 [cited below], Plaintiff maintains that the absence of service does not supply the corollary that the appearance is unlawful; otherwise, there would be no need for the provisions of Article 143, C.C.P., which allow the party who has already appeared to ask the Court to order the Plaintiff to make service:

“En la présente instance... la Commission a comparu, par procureur. Mais je ne vois pas que cette comparution puisse être invoquée pour en déduire le fait d’une assignation qui jusque-là n’existait pas.”) (*Robillard*);

“143. Le juge ou le greffier **peuvent** ordonner au demandeur qui tarde à faire signifier une déclaration, de le faire dans un délai imparti, sous peine d’annulation de la déclaration.”;

25. *Justice must be seen to be done*: in the present case, the Plaintiff’s action is under threat from what is **not** being seen: a “**Désistement de comparution**” that is a fraud in the law, issued to cover up a subpoena in virtue of article 397 C.C.P. issued in deliberate contempt of court and also a fraud on the law to sabotage this file;

26. The *Procureur général*’s two Defendants (i) were not changing attorneys; (ii) they were not being abandoned; (iii) there was no urgent reason to withdraw the appearance since a simple withdrawal of their illegal subpoena would have sufficed; (iv) therefore, the **Désistement de comparution**, given its procedural consequences for the Plaintiff if left unaddressed, is clearly a tactic, and the Plaintiff is entitled to have this tactic remedied;

27. As her chosen remedy, the Plaintiff has an interest and a right to ask this Honourable Court to **RATIFY** the unilateral “**Désistement de comparution**” of the *Procureur général* and her attorneys, since they issued it “*en toute connaissance de cause*” with intent to cover up a prior attempt at sabotage, to wit, their illegal subpoena;

28. Plaintiff is entitled to have the Defendants answer for their illegal subpoena, and will demand answers in virtue of her separate *Motion to Cancel and Quash* invoking Articles, 2, 5, 20 and 46 C.C.P., which she is serving and producing separately:

“On peut, en vertu de l’article 20 C.P., demander **la cassation d’un subpoena** pour un interrogatoire préalable après défense lorsqu’il apparaît que cet interrogatoire a pour but de harceler la partie adverse ou de retarder le déroulement du procès pour des fins purement tactiques.” [Duhamel c. Rivard, (1992) R.J.Q. 1217 (C.A.).];

29. In respect of Article 2, C.C.P., the Superior Court in re *Duquet c. Ste-Agathe-des-Monts (Ville de)*, (1977) 2 R.C.S. 1132 has found that:

“Lorsque la décision sur une question de forme a pour conséquence qu’un justiciable est privé d’un droit important, elle cesse d’être vraiment une question de forme et devient une question de droit. ”

30. As the *Procureur général* and her attorneys, **Bernard, Roy &**

Associés well know, the *Procureur général* was reprimanded by **Judge Brossard** of the Appeal Court in 1975 for attempting to overturn a final decision favorable to **Sarto Duval** on the grounds pleaded by the attorney general that the introductory proceeding had been defective due to irregular service *by an alternative mode contrived* by the *Procureur général*;

31. In re *Sarto Duval*, the **Hon. Juge Brossard** said, in part:

“[...] on peut s’étonner et surtout se demander s’il est exacte, ce don’t il m’est permis de douter, que le ministre à qui sont confiées la garde et la surveillance des droits de tous les citoyens ait pu consentir à ce que je considérerais une mesquinerie judiciaire presque inconcevable de la part de ses représentants légaux [...] afin de mettre en péril le droit d’un demandeur en justice [...] à acquiescer l’irrégularité afin de s’en prévaloir, pour ainsi dire avec effet rétroactif, lorsqu’il sera trop tard pour la partie adverse d’y remédier.” (pp. 2072 and 2073)

32. Dans l’affaire *Jeunes Canadiennes pour une civilisation chrétienne c. Fondation du Théâtre du nouveau-monde* [1979] C.S., à la page 183, la Cour Supérieure a cité Loysel en concluant comme suit :

“Qui fait la faute, il la boit.”

33. The Plaintiff-PETITIONER herein has a right and interest that this Honourable Court require the *Procureur général* es qualité and her attorneys **Bernard Roy & Associés**, to accordingly “swallow” their illegal “*désistement de comparution*”;

34. The present Motion is well founded in fact and in law.

WHEREFORE, MAY IT PLEASE THIS HONORABLE COURT:

GRANT the present Motion;

RATIFY the “*Désistement de comparution*” of the Defendant *Procureur général* sent by messenger to the Plaintiff on **September 29, 2000**;

FORECLOSE the Defendant *Procureur général* and her clients the Régie du logement and **Maître Christine Bissonnette** from filing any additional appearances in this file prior to judgment herein, sicne the *Procureur général* is still *ad litem* is till *ad litem* in virtue of the illegal “*désistement de comparution*”;

RETURN the Parties to the state they were in prior to the appearance herein on **August 17, 2000** of the *Procureur général* es qualité, the whole to preserve the rights of the Plaintiff in her present action as subsisted before the intervention of the *Procureur général*;

ORDER the Defendant *Procureur Général* to cease and desist from harassing the Plaintiff and from abusing procedure to sabotage the Plaintiff’s actions, and impose any sanctions upon the *Procureur général* es qualité and her attorneys **Bernard Roy & Associés** as this Honourable Corut may deem fit;

THE WHOLE with costs to follow.

MONTREAL, this 2nd day of August, 2001.
[SGD.:] Kathleen Moore

Kathleen Moore, Plaintiff

JURISPRUDENCE CITED

Superior Court of Québec
MOTION OF PLAINTIFF TO RATIFY
THE UNILATERAL “DESISTEMENT DE COMPARUTION”
OF THE PROCUREUR GÉNÉRAL, ES QUALITÉ
In re N°: 500-05-059435-006 . August 2, 2001

1. *Duquet c. Ste-Agathe-des-Monts (Ville de)*, (1977) 2 R.C.S. 1132.
2. *Fardo vs. Behar* (29 December 1976), no. C.A. Montréal 500-09-000396-76 (C.A.)
3. *Huard c. Bedford (Ville de)*, [1984] R.L. 223 (C.S.).
4. *Jacques Duhamel v. Michel Rivard et Communauté Urbaine de Québec* [1992] R.J.Q. 1217 à 1226.
5. *Jeunes Canadiennes pour une civilisation chrétienne c. Fondation du Théâtre du nouveau-monde* [1979] C.S.
6. *Robillard c. Commission hydroélectrique de Québec*, (1954) R.C.S. 695.

§ *Code de procédure civile*, L.R.Q., c. C-25

§ *Loi sur la Régie du logement* (L.R.Q., c. R-8.1).

§ *Loi sur la Société canadienne des postes*, c. C-10

A F F I D A V I T

Je, soussignée, **Kathleen Moore**, traductrice, domiciliée et résidante au 7935 boulevard St-Denis, app. # 4, dans les ville et district de Montréal, affirme solennellement ce qui suit:

1. Je suis la **Requérante** dans la présente *Motion Of Plaintiff To Ratify The Unilateral “Desistement De Comparution” Of The Procureur Général, Es Qualité* selon les articles 2, 5, 20, 46, 249, 263, C.C.P. et datée du

2^{ième} août 2001;

2. Tous les faits allégués dans la présente requête sont vrais.

ET J'AI SIGNÉ:

[SGD.:] Kathleen Moore

Kathleen Moore

Assermenté devant moi, à Montréal,

Ce **2^{ième} août 2001**

[SGD.:] Marcel Turcotte

Commissaire à l'assermentation
pour le district judiciaire de

[STAMPED:] MARCEL TURCOTTE

129691

Commissaire à l'assermentation
District de Longueuil et Montréal

AVIS DE PRÉSENTATION

**AUX: LA RÉGIE DU LOGEMENT,
MAÎTRE CHRISTINE BISSONNETTE,**

5199 est rue Sherbrooke, bureau 2161

Montréal, Québec H1T 3X1

C/o **Procureur général** /, es qualité the **Régie du logement**
and **Maître Christine Bissonnette,**

Bernard Roy & Associés

Télécopieur : (514) 873-7074

PRENEZ AVIS que la présente *Motion Of Plaintiff To Ratify The Unilateral "Desistement De Comparution" Of The Procureur Général, Es Qualité* selon les articles 2, 5, 20, 46, 249, 263, C.C.P. et datée du **2^{ième} août 2001** sera présentée pour adjudication devant la Cour Supérieure du district de Montréal siégeant en division de pratique dans et pour le district judiciaire de Montréal, Palais de Justice de Montréal, 1 Notre Dame East en la salle **2.16**, le **6 septembre 2001** à **9h15** ou aussitôt que conseil pourra être entendu.

MONTREAL, ce 2^{ième} août 2001

[SGD.:] Kathleen Moore

Kathleen Moore, Requérante

C a n a d a
r e

Province of Québec
District of Montréal

C o u r S u p é r i e u

(Civil Division)

Nº: 500-05-059435-006

KATHLEEN MOORE,

Plaintiff-PETITIONER,

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-VS.-

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Bissonnette,

Nº: 500-05-061581-003

LA PROCUREUR GÉNÉRAL
DU QUÉBEC, es qualité the Régie du
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Second Evicgtion case-file:
N º: 31 010430 072 T 010626
RESPONDENTS
N º: 31 010430 072 T 010626

Co-Défendants.
(All jointly and severally)
Defendants-

LIST OF EXHIBITS

Exhibit R-1 Fax-letter of Plaintiff to Procureur génâral on **28 Septemebr 2000**;

Exhibit R-2 Letter of Mtre. Lizann Demers for the Procureur général dated **29 September 2000**, en liasse with messenger bill of lading and “*désistement de comparution*”;

MONTREAL, this 2nd day of August, 2001
[SGD.:] Kathleen Moore

Kathleen Moore, Plaintiff