



The 1<sup>st</sup> affidavit of  
Bishnu Khadka  
made on June 29, 2016

No. S-1510284  
Vancouver Registry

**In the Supreme Court of British Columbia**

**Between**

**Prakash Basyal, Arthur Gortifacion Cajes, Edlyn Tesorero and Bishnu Khadka**

**Plaintiffs**

**And**

**Mac's Convenience Stores Inc, Overseas Immigration Services Inc., Overseas  
Career and Consulting Services Ltd., and Trident Immigration Services Ltd.**

**Defendants**

**Affidavit #1 of Bishnu Khadka**

I, **Bishnu Khadka**, am a cook and reside at [REDACTED] in the city of Vancouver, in the province of British Columbia, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Plaintiff herein and as such I have personal knowledge of the facts and matters hereinafter deposed to except where stated to be on information and belief and in those cases I verily believe them to be true.
2. I am a Nepali national.
3. I currently live in Vancouver, British Columbia.
4. In 2012, I was living and working full time as a waiter in Dubai, United Arab Emirates ("UAE"). I was financially supporting my wife and parents, who live in Nepal.

5. A friend told me about job opportunities in Canada and referred me to Overseas Career and Consulting Service Ltd. ("**Overseas Consulting**").
6. On or around May 23, 2012, I met with AJ Mann at a recruitment fair in Dubai. Mr. Mann told me that he was a representative of Overseas Consulting. Mr. Mann, on behalf of Overseas Consulting, told me that he was a Canadian immigration consultant.
7. Mr. Mann told me that he could find me a job in Canada in exchange for a 7,500 dollar fee (the "**Recruitment Fee**"). Mr. Mann told me that an initial payment of \$2,000 USD was required up front as a registration fee. After the payment of the registration fee, Overseas Consulting would send a Labour Market Opinion and job offer which I would use to apply for a visa and a work permit. The remaining \$5,500 USD would become due once I had secured the visa and work permit.
8. On the next day, May 24, 2012, I paid Overseas Consulting the initial \$2,000 USD fee directly to Mr. Mann in cash (in dirhams) to secure a job for me in Canada.
9. During the meeting, Mr. Mann gave me a flyer advertising the services offered by Overseas Consulting. The flyer outlines the services provided by Overseas Consulting, the first of which is "guaranteed job allocation". Attached to this my affidavit as **Exhibit "A"** is the flyer that I received at Overseas Consulting's recruitment fair in May 2012.
10. During the meeting, I gave Mr. Mann a copy of my resume. I understood that Overseas Consulting would find me a job in Canada that would enable me to apply for a visa and a work permit.
11. For several months, I did not hear from Overseas Consulting, so I attended another recruitment fair put on by Overseas in Dubai in late November 2012. There I approached Kuldeep Bansal who I understood to be the main representative of Overseas Consulting. Mr. Bansal promised me that he would personally find me a job or else he would refund my registration fee of \$2,000 USD.
12. A few weeks later, in or around December 2012, I received:

- a. an offer of employment signed by Mr. Geoff Higuchi on behalf of Mac's Convenience Stores Inc. ("**Mac's**") to work as a cashier in Calgary, Alberta ("**Offer of Employment**");
- b. an employment contract signed by Mr. Higuchi on behalf of Mac's, for me to work as a cashier for Mac's Convenience Store Inc. in Calgary, Alberta ("**Employment Contract**"). Attached as **Exhibit "B"** to this my affidavit is a copy of my Employment Contract; and
- c. a positive Labour Market Opinion dated December 20, 2012, which authorized Mac's to bring in 40 temporary foreign workers to work as cashiers at Mac's in Calgary, Alberta ("**LMO**"). The LMO identified Overseas Career and Consulting Ltd. as a third party authorized to act on behalf of Mac's. The LMO also identified Mr. Higuchi as the Employer Contact. Attached as **Exhibit "C"** to this my affidavit is a copy of my Labour Market Opinion (3 of 4 pages).

13. The employment contract provided, among other things, the following terms:

- a. the term of employment is 24 months;
- b. the work is as a cashier;
- c. the hours of work are 37.5 hours per week for a wage of \$11.40 per hour;
- d. 4.00% vacation pay;
- e. Mac's will assume transportation costs of my round trip travel from the United Arab Emirates to Calgary, Alberta and to my home country;
- f. Mac's shall provide health insurance at no cost to Mr. Khadka until he is eligible for applicable provincial health insurance;
- g. that Mac's would not recoup, through payroll or by any other means, any costs incurred from its recruitment of me;

- h. that Mac's is obliged to abide by the standards set out in the relevant provincial labour standards act; and
- i. Mac's will ensure that reasonable and proper accommodation is available for me and will provide me with suitable accommodation, if necessary.

14. In or around January or February 2013, I signed the Employment Contract with Mac's.
15. I had calculated approximately how much I was going to earn at Mac's based on the terms of my Employment Contract. I understood that I was going to work 37.5 hours per week for a wage of \$11.40 per hour for 24 months. I made the decision to sign the Employment Contract based on those working hours, wage rate, time period and calculated earnings.
16. I used the positive LMO and Employment Contract with Mac's to apply directly to Citizenship and Immigration Canada for a visa to travel to Canada as a temporary foreign worker. My application was approved on or around July 29, 2013. Attached as **Exhibit "D"** to this my affidavit is a copy of my visa.
17. After receiving my visa, I contacted Overseas Consulting. An employee of Overseas Consulting advised me that the remaining payment was due and that I should make my payment by making a money transfer to Trident Immigration Services Ltd. ("**Trident Immigration**"). On or around November 10, 2013, I sent a money transfer of \$5,500 USD to Trident Immigration. Attached as **Exhibit "E"** to this my affidavit is a copy of the money transfer I sent to Trident Immigration.
18. I quit my job in the UAE and returned to Nepal. I then waited for Overseas to send me confirmation that I could travel to Canada to work. I repeatedly called and emailed Overseas Consulting to find out when I could come to Canada to work, but I did not receive a definite response from them. Attached as **Exhibit "F"** to this my affidavit is a copy of e-mails between Overseas Consulting and me about the money transfer to Trident Immigration and my plan to return to Nepal and wait for a plane ticket.
19. Overseas Consulting booked me a flight to Vancouver, British Columbia.

20. Prior to travelling to Vancouver, I spoke by telephone to an employee of Overseas Consulting, who identified himself as Kumar. Kumar instructed me to destroy any records that showed payments were made to Overseas Consulting, as well as any social media communications with or about Overseas Consulting.
21. I arrived in Vancouver on April 13, 2014. Attached as **Exhibit "G"** to this my affidavit is a copy of my plane ticket.
22. I received a work permit on arrival in Canada authorizing me to work as a cashier for Mac's Convenience Store Inc. dba Subway in Calgary, Alberta ("**Work Permit**"). Attached as **Exhibit "H"** to this my affidavit is a copy of my Work Permit.
23. My Work Permit set out, among other things, the following:
- Not authorized to work in any occupation other than stated.
  - Not authorized to work for any employer other than stated.
24. Upon arrival in Vancouver, Mr. Bansal instructed me to live in a house in Surrey, British Columbia, with six to eight other workers.
25. I was not sent to Calgary to work.
26. I was not legally permitted to work for any employer other than the specific Mac's store for which I been issued my Work Permit. As a temporary foreign worker, I was also not entitled to any public benefits or services. As a result, I was without any source of income or financial support.
27. On or around April 19, 2014, Overseas Consulting arranged for me to fly to Kitimat, British Columbia, to work as a cashier at a Mac's Convenience Store. At the time, I understood this to be legal employment when in fact it was in violation of the terms of my Work Permit.
28. I began work in Kitimat on or around April 20, 2014. My employer did not provide me with the hours of work guaranteed under my Employment Contract, and I struggled to make enough money to survive. I slept on the floor of an unfurnished

apartment and shared a blanket with another temporary foreign worker who had been sent to Kitimat to work at Mac's. I had little to no food to eat.

29. When I contacted Overseas Consulting about the work shortage, an employee of Overseas Consulting, Cynthia Hiram, told me that "we may pull you from that location if we are not able to resolve the situation as structure is changing at that location so there is some confusion." Attached to this my affidavit as **Exhibit "I"** is a copy of an e-mail exchange between Ms. Hiram and me.
30. With the help of a community services society in Kitimat, I was able to return to Vancouver. Attached to this my affidavit as **Exhibit "J"** is a copy of an e-mail sent by Denise O'Neill of Kitimat Community Services Society to Mr. Bansal.
31. On or around May 14, 2014, I met with Mr. Bansal. Mr. Bansal shouted at me and threatened me that my options were to either work on a farm in Canada or to return to Nepal.
32. While I was in Kitimat, I was very discouraged because I had come to Canada to work hard and save money. Due to the work shortage, not only was I not able to save but I used up the money I brought to Canada and had little money left to buy food. I was scared because I knew no one in Kitimat and found it difficult to survive based on the meager hours and wages I received.
33. When I returned to Vancouver and was shouted at by Mr. Bansal, I felt demoralized and powerless because I had come all the way to Canada to find out that the job I was promised did not exist.
34. I suffered mental distress and hardship as a result of the conduct of Mac's Convenience Stores Inc, Overseas Immigration Services Inc., Overseas Career and Consulting Services Ltd., and Trident Immigration Services Ltd. (the "**Defendants**").
35. At no point was I ever given employment with Mac's in accordance with the terms of my Employment Contract.

**Suitable to be Representative Plaintiff**

36. I have been advised by Class Counsel and verily believe that there are in excess of 450 putative Class Members.

37. I have been advised by Class Counsel and verily believe that many of the putative Class Members are Nepali and/or live in the Lower Mainland, just as I do. I know several temporary foreign workers living in the Lower Mainland who worked with Overseas to come to Canada to work for Mac's but who were not provided the jobs they were promised. I have met these workers in person or online through Facebook.

38. I am fluent in Nepali, the native language of Nepal, as well as English.

39. I am prepared to act as a representative of the Class in this proceeding.

40. I understand that the major steps in a class action are generally as follows:

- Commencement of the action by issuance of the Notice of Civil Claim;
- Application for certification;
- Notice to the Class of the certification and the right to opt out or, in the case of non-residents, to opt in;
- Discovery of documents;
- Examination for discovery;
- Pre-trial conferences;
- Trial of the common issues;
- Notice to the Class if individual participation is required;
- Determination of proceeds of resolution by way of judgement or settlement; and possibly
- Appeals

41. I also understand that in agreeing to seek and accept an appointment by the Court as a representative plaintiff, it is my responsibility, among other things:

- To become familiar with the issues to be decided by the Court;
- To review the Notice of Civil Claim and any amendments;
- To assist in the preparation and execution of an Affidavit in support of the application for certification;
- To attend, if necessary, with Class Counsel for cross-examination on my affidavit;

- To attend, if necessary, with Class Counsel for an examination for discovery where I will be asked questions;
- To attend, if necessary, with Class Counsel at trial and give evidence regarding the case;
- To receive briefings from Class Counsel;
- To express my opinion to Class Counsel and to the Court if offers of settlement are made;
- To express my opinion to Class Counsel and to the Court if settlement positions are to be formulated; and
- To assist in preparation of an execution of an Affidavit in support of Court approval of any settlement

42. To date, I have taken the following steps to fairly and adequately represent the interests of the Class Members:

- I retained two law firms, Koskie Glavin Gordon and Allevato Quail & Worth as Class Counsel;
- I have met with Class Counsel, Mr. Charles Gordon and Ms. Carmela Allevato, and associate lawyers working for their firms on numerous occasions to discuss the case and to provide information for the Notice of Civil Claim and this affidavit;
- I have reviewed the Notice of Civil Claim;
- I have advised putative Class Members of the Notice of Civil Claim and advised them that the Notice of Civil Claim is available for review on the websites of Koskie Glavin Gordon and Allevato Quail & Worth; and
- I aided in drafting this affidavit.

43. I intend to take the following steps to continue to fairly and adequately represent the interests of the Class Members:

- To interact with other Class Members, receive their input and relay information to and from Class Counsel;
- To monitor the Koskie Glavin Gordon and Allevato Quail & Worth websites for information about the case; and
- Instruct Class Counsel.

44. I have reviewed the Notice of Application and understand that the proposed class definition in this action is as follows:

- all persons who, on or after December 11, 2009, made payments to Overseas Immigration Services Inc., Overseas Career and Consulting Services Ltd., and/or Trident Immigration Services Ltd. for the purpose of securing



employment in Canada, and who were thereafter provided with employment contracts to work at Mac's Convenience Stores in British Columbia, Alberta, the Northwest Territories and Saskatchewan under Canada's Temporary Foreign Worker Program.

45. From my review of the Notice of Application, I understand that the proposed common issues are as follows:

**A. Breach of Contract**

- i. What are the relevant terms (express, implied or otherwise) of the Class' employment contracts with the Defendant Mac's respecting:
  - a. wage rate;
  - b. hours of work;
  - c. length of the contract;
  - d. recruitment fees;
  - e. payment of two-way air transportation; and
  - f. reasonable and proper accommodation?
- ii. Did the Defendant Mac's or its agents breach any of the foregoing contractual terms? If so, how?
- iii. Does the contract require the Class Members to mitigate their damages?

**B. Agency**

- i. Were the Defendants Overseas Immigration Services Inc., Overseas Career and Consulting Services Ltd., and/or Trident Immigration Services Ltd. (collectively, "**Overseas**") acting as agents of the Defendant Mac's in recruiting Class Members to work for Mac's, including by securing employment contracts and LMOs for Class Members to work at stores operated by the Defendant Mac's and/or otherwise facilitating their entry into Canada?
- ii. If the answer to (B)(i) is "yes", is the Defendant Mac's thereby liable for their agents charging and receiving Recruitment Fees from Class Members?

**C. Negligent Misrepresentation**

- i. Did the Defendants, or any of them, owe a special duty of care to the Class Members?
- ii. Did the Defendants Overseas misrepresent to the Class Members that it would secure legal employment in Canada for the Class Members in exchange for the payment of a Recruitment Fee;
- iii. Did the Defendants, or any of them, misrepresent to the Class Members that the Class Members would be employed by Mac's pursuant to the terms of a valid employment contract in exchange for the payment of a Recruitment Fee;
- iv. If the answer to C(ii) is "yes", was the misrepresentation made negligently by the Defendants Overseas?
- v. If the answer to C(iii) is "yes", was the misrepresentation made negligently by any of the Defendants?
- vi. If the answer to any of C(iv-v) is yes, did the Class Members rely to their detriment on the misrepresentation(s)?
- vii. If the answer to C(vi) is "yes," are the Defendants, or any of them, liable for negligent misrepresentation?

**D. Fraudulent Misrepresentation**

- i. Did the Defendants Overseas deliberately or recklessly misrepresent to the Class Members that it would secure legal employment in Canada for the Class Members in exchange for the payment of a Recruitment Fee?
- ii. Did the Defendants, or any of them, deliberately or recklessly misrepresent to the Class Members that the Class Members would be employed by Mac's pursuant to the terms of a valid employment contracts in exchange for the payment of a Recruitment Fee?
- iii. If the answers to D(i) and/or (ii) is "yes", did the Defendants, or any of them, intend to induce the Class Members to rely on their misrepresentation to their detriment?

- iv. If the answer to D(iii) is “yes,” are the Defendants, or any of them, liable for fraudulent misrepresentation?

#### **E. Conspiracy**

- i. Did the Defendants conspire to harm the Class Members?
- ii. Did the Defendants act in furtherance of the conspiracy?
- iii. Was the predominant purpose of the conspiracy to harm the Class Members?
- iv. Did the conspiracy involve unlawful acts?
- v. Did the Defendants know that the conspiracy would likely cause injury to the Class Members?
- vi. Did the Class Members suffer economic loss?
- vii. What damages, if any, are payable by the Defendants to the Class Members?

#### **F. Unjust Enrichment & Waiver of Tort**

- i. Was the Defendant Mac’s unjustly enriched by not having to pay the Class pursuant to the terms of the employment contracts?
- ii. Were the Defendants, or any of them, unjustly enriched by having the Class pay the Recruitment Fees; and
- iii. Were the Defendants, or any of them, unjustly enriched by not paying the cost of two-way air transportation for the Class?
- iv. What restitution, if any, is payable by the Defendants, or any of them, to the Class Members based on the doctrine of waiver of tort?
- v. Are the Defendants, or any of them, liable to account to the Class Members for the Recruitment Fees, if any, that they obtained from the Class Members based on the doctrine of waiver of tort?

### G. Breach of Fiduciary Duty

- i. Did the Defendants, or any of them, owe a fiduciary duty to the Class?
- ii. If the answer to F(i) is “yes”, has there been a breach of that duty?

### H. Remedy & Damages

- i. If the answer to any of the common issues is “yes”, what remedies are Class Members entitled to?
- ii. If the answer to any of the common issues is “yes”, are the Defendants potentially liable on a class-wide basis?
- iii. What is the appropriate method of procedure for distributing the damages award to the Class?
- iv. Is the Class entitled to an award of aggravated or punitive damages based upon the Defendants’ conduct and, if so, in what amount?
- v. If the answer to H(iv) is “yes, what is the appropriate method of procedure for distributing any aggravated or punitive damages to the Class?

46. My counsel have produced a plan for the conduct of the litigation. Attached to my affidavit as **Exhibit “K”** is a copy the Litigation Plan.

47. My counsel have prepared a proposed Notice to the Class. Attached to my affidavit as **Exhibit “L”** is a copy of the Notice to the Class.

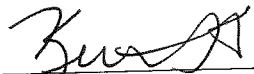
48. I filed a complaint with the Employment Standards Branch on June 27, 2014 against the Defendants Overseas Career & Consulting Services Ltd. and Mac’s (my “**Employment Standards Complaint**”). Attached as **Exhibit “M”** is my Employment Standards Complaint against Overseas and Mac’s.

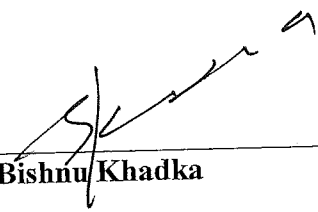
49. I was unaware of my legal rights under the British Columbia *Employment Standards Act* until after the six-month limitation period for recovery that would have captured the period during which I paid all of the Recruitment Fees.

50. In its response to my Employment Standards Complaint, the Defendant Overseas Career & Consulting Services Ltd. has argued, among other things, that my complaint seeking the recovery of the Recruitment Fees is “well beyond the six month recovery period set out under s. 80 of the *Act*”. Attached to this my affidavit as **Exhibit “N”** is a copy of the Defendant Overseas’ September 18, 2015 response to my Employment Standards Complaint. Attached to this my affidavit as **Exhibit “O”** is a copy of the Defendant Overseas’ February 12, 2016 response to my Employment Standards Complaint.
51. In response to my Employment Standards Complaint, the Defendant Mac’s has argued that after four days of employment with Mac’s, I was terminated by Mac’s and rehired by the Kitimat store manager, Jaswinder Makhija, who took over the store. Attached to this my affidavit as **Exhibit “P”** is a copy of an email from a Mac’s representative to an Employment Standards Branch officer.
52. However, Mac’s agreed to settle part of my Employment Standards Complaint by paying me \$2,145 for my claim for expenses I incurred as a result of Mac’s’ false representations pursuant to s. 8 of the *Employment Standards Act*. I accepted their offer. Attached to this my affidavit as **Exhibit “Q”** is a copy of the Receipt of Payment and Termination of Complaint form that I completed.
53. I am not aware of any conflict between myself and other members of the proposed class. I believe that I can fairly and adequately represent the interests of the Class Members and I am committed to fulfilling my responsibilities.
54. I have no knowledge of anything to suggest that any Class Member has a sufficient ability or interest in controlling the prosecution of separate actions.
55. I do not have sufficient resources to pursue a Small Claims Court action.

56. I am not aware of any facts or material to this application that is not disclosed in this affidavit.

**SWORN BEFORE ME** at the city )  
of Vancouver, in the Province of British )  
Columbia this 29th day of June 2016. )  
)  
)

  
\_\_\_\_\_  
Kirby Smith )  
A Commissioner for Taking Affidavits in )  
the Province of British Columbia )

  
\_\_\_\_\_  
**Bishnu Khadka**

**KIRBY SMITH**  
*Barrister & Solicitor*  
1650 - 409 GRANVILLE STREET  
VANCOUVER, B.C. V6C 1T2

This is Exhibit "K" referred to in the Affidavit of Bishnu Khadka sworn before me at Vancouver, British Columbia this 29 day of June 2016.



A Commissioner for taking Affidavits  
for British Columbia

**KIRBY SMITH**  
*Barrister & Solicitor*  
1650 - 409 GRANVILLE STREET  
VANCOUVER, B.C. V6C 1T2

### Litigation Plan

The Plaintiff proposes the following Litigation Plan if certification is granted:

#### Notice

1. A hearing will be held within **7 days** of the issuance of judgment on the certification application to settle the terms of the certification order, if required, and to settle the manner of notice to the Class.
2. The notices required by the certification order will be published or delivered within **30 days** of the filing of the certification order.

#### Response to Notice of Civil Claim

3. The Defendants will file and serve their Response to the Notice of Civil Claim within **21 days** of the filing of the certification order.

#### Discovery

4. The Plaintiffs and Defendants will exchange lists of documents **35 days** after the entry of the certification order.
5. The Plaintiffs and Defendants will conduct any examinations for discovery within **45 days** after the last date for exchange of the respective parties' lists of documents.

#### Case Management and Interlocutory Applications

6. There will be case management conferences every two months, unless the parties and the court agree that such hearings are not required.
7. Unless a particular application is a matter of urgency, all interlocutory applications will be heard at these regular case management conferences with the understanding that the court can receive affidavit evidence and any other evidence per section 12 of the *Class Proceedings Act*, RSBC 1996 c 50.
8. Unless the matter is urgent, any party bringing an interlocutory application will file supporting material at least 14 days prior to the case management conference. The respondents will file any responding affidavit material 7 days prior to the case management conference. The applicant will file its argument 5 days prior to the case management conference. The respondent will file a responding argument 3 days prior to



the case management conference. The court will determine whether any additional oral argument is required, and advise the parties accordingly.

9. If the matter is urgent, a party may seek an emergency case management conference, with the court determining the relevant schedule for exchange of material, if required.

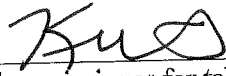
#### **Common Issues Resolution**

10. The Plaintiffs propose the following in relation to the trial of the common issues:
  - a. The Plaintiffs will deliver their expert reports in relation to the certified common issues within **30 days** following completion of the examinations for discovery.
  - b. The Defendants will deliver their expert reports in relation to the certified common issues within **30 days** following receipt of the Plaintiff's expert reports.
  - c. The Plaintiff will deliver any reply reports within **42 days** before the commencement of the common issues trial.

#### **Individual Issues Determination**

11. If the Defendants are wholly successful on the common issues, the case will be at an end and no individual issues determination will be required.
12. If the Plaintiffs are successful on the common issues, in whole or in part, an orderly process for the resolution of any remaining issues may be required.
13. Within **30 days** of the issuance of judgment for the Plaintiffs on any of the common issues, the parties will convene for argument under s. 27 of the *Class Proceedings Act* to determine the appropriate course for any outstanding issues.

This is Exhibit "L" referred to in the Affidavit of Bishnu Khadka sworn before me at Vancouver, British Columbia this 29 day of June 2016.



A Commissioner for taking Affidavits  
for British Columbia

**KIRBY SMITH**  
*Barrister & Solicitor*  
1650 - 409 GRANVILLE STREET  
VANCOUVER, B.C. V6C 1T2

## Notice to the Class

### Introduction

The Supreme Court of British Columbia has certified the following action as a class proceeding: *Prakash Basyal, Arthur Gortifacion Cajés, Edlyn Tesorero and Bishnu Khadka v. Mac's Convenience Stores Inc, Overseas Immigration Services Inc., Overseas Career Consulting Services Ltd, and Trident Immigration Services Ltd.*, Supreme Court of British Columbia, Vancouver Registry No. S-1510284.

The class consists of all persons described below:

all persons who, on or after December 11, 2009, made payments to Overseas Immigration Services Inc., Overseas Consulting and Consulting Services Ltd., and/or Trident Immigration Services Ltd. for the purpose of securing employment in Canada, and who were thereafter provided with employment contracts to work at Mac's Convenience Stores in British Columbia, Alberta, the Northwest Territories and Saskatchewan under Canada's Temporary Foreign Worker Program

### What is the Case About?

On December 10, 2015, Prakash Basyal, Arthur Gortifacion Cajés, Edlyn Tesorero and Bishnu Khadka (the "**Representative Plaintiffs**") commenced a proposed class action against Mac's Convenience Stores Inc, Overseas Immigration Services Inc., Overseas Career Consulting Services Ltd, and Trident Immigration Services Ltd. (the "**Defendants**").

In the action the Representative Plaintiffs allege that over 450 foreign workers paid fees to Overseas in order to obtain legal employment at Mac's Convenience Stores in Western Canada through the Temporary Foreign Worker Program from December 11, 2009 to present. Mac's then entered into employment contracts with the foreign workers. When some of the foreign workers arrived in Canada, Mac's refused or neglected to provide the work that was guaranteed in the employment contract.

It is alleged that Mac's breached the terms of the employment contract by failing to provide the work as promised, and failing to reimburse class members for expenses incurred on behalf of Mac's, including recruitment fees and travel costs. It is alleged that Mac's and Overseas misrepresented to the class members that they would provide or secure lawful employment in Canada.

The case seeks restitution of the recruitment fees, and award of compensatory, general, aggravated and punitive damages and declaratory relief both to make themselves whole for damages suffered due to the Defendants' violations of the law, and to ensure that the Defendants will not subject other temporary foreign workers to mistreatment in the future.

On [Date], the Supreme Court of British Columbia ruled that this action may proceed as a class action and that Prakash Basyal, Arthur Gortifacion Cajés, Edlyn Tesorero and Bishnu Khadka may act as Representative Plaintiffs.

### How do I participate in the class action?

#### British Columbia Residents—What Do I Need to Do?

If you live in British Columbia on the date this class action proceeding was certified, you are automatically included and do not need to do anything to be a class member in this class action. However, it is recommended that you contact class counsel so that you can be put on our mailing list for periodic updates on the status of the proceeding.

**If you DO NOT want to participate, you must opt out of this action by signing and mailing the Court-approved Opt Out Form to either address below postmarked no later than [DATE]:**

<b>Koskie Glavin Gordon</b> 1650-409 Granville Street Vancouver, BC V6C 1T2	<b>Allevato Quail Worth</b> 405-510 W Hastings St Vancouver, BC V6B 1L8
Phone: 604-734-8001 Fax: 604.734.8004 Website: <a href="http://www.koskieglavin.com">www.koskieglavin.com</a>	Phone: 604-424-8631 Fax: 604.424.8632 Website: <a href="http://www.aqwlaw.ca">www.aqwlaw.ca</a>

The Opt-out form is enclosed but also available at either [www.koskieglavin.com](http://www.koskieglavin.com) or [www.aqwlaw.ca](http://www.aqwlaw.ca) websites.

If you opt out of the class action, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your claim. By opting out of the class action, you will take full responsibility for obtaining legal advice about the limitation period and for taking all legal steps necessary to protect your claim.

All class members will be bound by the judgment of the Court on the common issues unless they have optioned out of the class.

### **Non-British Columbia Residents—Opting In to the Class Proceeding**

If you were not living in British Columbia on the date this class action proceeding was certified, you must Opt In to the class proceeding if you wish to join the class action and be a class member. You may opt in to the class action by signing and mailing the Court-approved Opt In Form.

If you DO want to participate, you must opt in to this action by signing and mailing the Court-approved Opt Out Form to either address below postmarked no later than [DATE]:

**Koskie Glavin Gordon**  
1650-409 Granville Street  
Vancouver, BC V6C 1T2

Phone: 604-734-8001  
Fax: 604.734.8004  
Website: [www.koskieglavin.com](http://www.koskieglavin.com)

**Allevato Quail Worth**  
405-510 W Hastings St  
Vancouver, BC V6B 1L8

Phone: 604-424-8631  
Fax: 604.424.8632  
Website: [www.aqwlaw.ca](http://www.aqwlaw.ca)

The Opt-in form is enclosed by also available at either [www.koskieglavin.com](http://www.koskieglavin.com) or [www.aqwlaw.ca](http://www.aqwlaw.ca) websites.

If you do not opt in by delivering the Opt In Form, you will not be bound by the judgment nor will you be entitled to share in the benefits of the class action. By not opting in to the class action, you will take full responsibility for initiating a personal action against the Defendant or for taking all legal steps necessary to protect your claim.

### **Independent Legal Advice**

Before you decide whether to opt out of the class action if you are living in British Columbia or before you decide whether to opt-in to the class action if you are not living in British Columbia, it is recommended that you obtain legal advice about your legal rights and options.

### **How will the Case Proceed?**

The class action has two stages.

The first stage is the resolution of the common issues. A list of common issues is available at Koskie Glavin Gordon or Allevato Quail Worth and can be found on either law firm website: [www.koskieglavin.com](http://www.koskieglavin.com) or [www.aqwlaw.ca](http://www.aqwlaw.ca).

If these common issues are resolved in favour of the Class, at the second stage the court will determine what further steps, if any, Class Members need to take to determine if they are entitled to recover any damages, and in what amount.

### **Do I Need to Pay Anything?**

You do not need to pay any legal fees out of your own pocket.

If the common issues stage of the case is successful, the fees payable to the lawyers for the class will be paid out of any judgment, and will not be paid directly by Class Members.

Any fee paid to lawyers for the Class must be approved by the court. The Representative Plaintiffs have entered into a fee agreement with the lawyers for the class that provides for the lawyers to be paid 30% of any amounts recovered by way of settlement, judgment, voluntary payment or execution or any other benefit derived from the class action. If and when this occurs, the lawyers will apply to court for approval of a fee that is consistent with the terms of this agreement, or some lesser amount. The court will decide what amount is fair. If the class loses the case on the common issues, class members are not responsible for the fees of any of the lawyers involved in this case.

### **Who are the Lawyers for the Class and How do I Find More?**

The lawyers for the class are:

**Charles Gordon**  
**Koskie Glavin Gordon**  
1650-409 Granville Street  
Vancouver, BC V6C 1T2

Phone: 604-734-8001  
Fax: 604.734.8004  
Website: [www.koskieglavin.com](http://www.koskieglavin.com)

**Carmela Allevato**  
**Allevato Quail Worth**  
405-510 W Hastings St  
Vancouver, BC V6B 1L8

Phone: 604-424-8631  
Fax: 604.424.8632  
Website: [www.aqwlaw.ca](http://www.aqwlaw.ca)

Class members who wish to know the status of the class action or to review background information the case should monitor either law firm website: [www.koskieglavin.com](http://www.koskieglavin.com) or [www.aqwlaw.ca](http://www.aqwlaw.ca).

The Representative Plaintiffs will instruct the lawyers for the class during the common issues stage. The lawyers must act in the interests of all class members. If any class members wish to participate on their own behalf at the common issues stage of the proceeding, they must apply to the British Columbia Supreme Court.

If you have any questions regarding this Notice, please go to either law firm website: [www.koskieglavin.com](http://www.koskieglavin.com) or [www.aqwlaw.ca](http://www.aqwlaw.ca) or contact Koskie Glavin Gordon at 604-734-8001 or Allevato Quail Worth at 604-424-8631 or by email at [classaction@koskieglavin.com](mailto:classaction@koskieglavin.com) or [info@aqwlaw.ca](mailto:info@aqwlaw.ca).