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The Court of Appeal Warns Petitioners in Motions for Authorization Against Group Descriptions that are too Broad and Disproportionate

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On September 26, 2007, the Court of Appeal dismissed the appeal of appellant Citizens for a Quality of Life and upheld the judgment of the Superior Court dated December 14, 2004, which had refused to grant its motion for authorization to institute a class action against Aéroports de Montréal on the basis of the lack of similar or related questions raised by the recourses of the class members.

We understand from the case *Citoyens pour une qualité de vie/Citizens for a Quality of Life* v. *Aéroports de Montréal* and the other judgments referred to by the Court of Appeal that the petitioner is primarily responsible for describing the class he seeks to represent and that he must do so in logical and reasonable proportions. Under Article 1005 C.C.P., and in the presence of appropriate evidence, the judge seized with a motion for authorization has the authority to intervene to remodel the class but not to the extent of creating from scratch a description of the class which the petitioner is responsible for. Not only is this task not incumbent on the judge but a description that is too broad may very well lead to the absence of common issues and a preponderance of individual issues. In such a case, the petitioner will see his application for authorization dismissed for failing to comply with Article 1003 (a) C.C.P.

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