

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

STEPHEN APS

Plaintiff

- and -

FLIGHT CENTRE TRAVEL GROUP (CANADA) INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

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**SUPPLEMENTARY MOTION RECORD OF THE PLAINTIFF  
(Certification, Settlement, Distribution Protocol and Class Counsel Fees Approval)  
Returnable November 9, 2020**

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November 6, 2020

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## TABLE OF CONTENTS

<b><u>TAB</u></b>	<b><u>DESCRIPTION</u></b>	
<b>1.</b>	<b>AFFIDAVIT OF TANYA ATHERFOLD-DESILVA, AFFIRMED NOVEMBER 6, 2020</b>	
A.	Exhibit "A":	Statements in Support of Settlement
B.	Exhibit "B":	Updated Class Counsel Fee and Disbursement Chart

Court File No.: CV-19-00614755-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

STEPHEN APS

Plaintiff

- and -

FLIGHT CENTRE TRAVEL GROUP (CANADA) INC.

Defendant

PROCEEDING UNDER THE *CLASS PROCEEDING ACT, 1992*

**AFFIDAVIT OF TANYA ATHERFOLD-DESILVA  
(Sworn November 6, 2020)**

I, Tanya Atherfold-Desilva, of the City of Brampton, Province of Ontario, DO SOLEMNLY AFFIRM:

1. I am a law clerk with the law firm of Goldblatt Partners LLP (“GP” or “Class Counsel”), counsel for the plaintiff in this action, and as such I have direct knowledge of the matters to which I hereinafter depose in this affidavit. Where the information in this affidavit is not based on my direct knowledge, but is based upon information and belief from other sources, I have stated the source of that information and I believe that information to be true.
2. I have reviewed the Affidavit of Joshua Mandryk sworn November 2, 2020 (the “Mandryk Affidavit”) and provide the following updated information in support of the motion for certification, settlement, distribution protocol and class counsel fees approval returnable November 9, 2020.

### **CLASS ACTION REGISTRATIONS**

3. GP maintains a website for this class action located at <https://flightcentreclassaction.com/>, where putative class members are encouraged to submit their contact information to Class Counsel, as well as details about their employment history with the Defendant. This information is then compiled into a centralized registrant database which I review regularly.

4. Class Counsel has received 11 additional unique registrations since the date of the Mandryk Affidavit.

5. To date, the registrant database includes a total of 837 unique registrants. We continue to receive registrations on a regular basis.

### **OPT-OUTS**

6. Class Counsel has received six (6) further opt outs since the date of the Mandryk Affidavit.

7. To date, the total number of opt outs received by Class Counsel is 28.

### **STATEMENTS IN SUPPORT**

8. Class Counsel has received six (6) further statements in support of the settlement since the date of the Mandryk Affidavit. Copies of these statements in support are attached to my affidavit at **Exhibit "A"**.

9. To date, the total number of statements in support of the settlement received by Class Counsel is 45. We have not received any further objections to the proposed settlement since the Mandryk Affidavit.

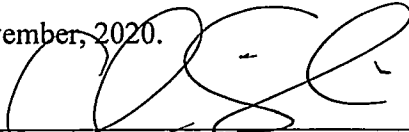
**CLASS COUNSEL FEES**

10. An updated chart with regard to Class Counsel fees and disbursements since the date of Mandryk Affidavit is attached to my affidavit at **Exhibit "B"**.

11. To date, Class Counsel have incurred fees in the amount of \$513,667.50, and disbursements in the amount of \$39,167.00 (including HST),

12. I swear this affidavit in support of the motion for certification, settlement, distribution protocol and class counsel fee approval and for no other or improper purpose.

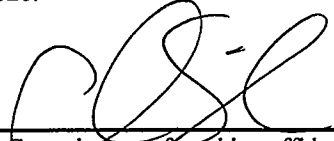
SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, this 6th day of November, 2020.

  
\_\_\_\_\_  
A Commissioner for taking Affidavits (or as may be)

Charles Sinclair LSO # 43178A

  
\_\_\_\_\_  
Tanya Atherfold-Desilva

This is Exhibit "A" referred to in the Affidavit of Tanya Atherfold-Desilva affirmed before me, this 6<sup>th</sup> day of October, 2020.



A Commissioner for taking affidavits, etc.

**Tanya Atherfold**

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**From:** Alexis M <mayer.alexis@gmail.com>  
**Sent:** November 3, 2020 6:46 PM  
**To:** Tanya Atherfold  
**Subject:** Statement in support of class action settlement in Aps v. FCTG (Canada) Inc.

Hello - my name is Alexis Mayer. I worked for a division of Flight Centre Travel Group Canada for a short period in 2014/2015.

I support this settlement because I believe FCGT's corporate overtime policies had a negative impact (financially and emotionally) on employees including myself. I was told on my first day that I would lose my job if I did not sign away my rights to being paid overtime, and that it would be strongly frowned upon if I did not attend company retreats on my own personal time. I acquiesced to both requests for fear of losing my job.

The day I quit and never looked back was the best day of my life. The company does not care about its employees whatsoever and distracts associates from the abuse by throwing elaborate, booze-filled parties for the company elite while promoting a toxic environment within the workplace.

I will not be attending the hearing as I now live in another province, but I fully support this class and this settlement. I wish it was bigger.

Sincerely,  
Alexis Mayer



**Tanya Atherfold**

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**From:** Lisa Simpson <lasimpson82@gmail.com>  
**Sent:** November 2, 2020 12:38 PM  
**To:** Tanya Atherfold  
**Subject:** Aps v. Flight centre settlement

Hello,

I'm sorry this is late, I didn't realize I would only be given 3 days to provide this statement when this email was received. This is the busiest time of year for my small business, so this did not provide me with enough time to complete.

Here is my statement, I'm hopefully it will be contributed to the case.

My name is Elizabeth Anne Simpson, and I go by Lisa. I worked full time for Flight Centre (FC) from late 2006- 2013. The entire time I worked there, it was expected that if your shift was over at 4, but you were in the middle of a sale, or completing a ticketing emergency for a client, you were expected to stay until the task was complete, even if you were there until 7:30 for reasons beyond your control. The justification was that since you were completing the sale, the commission you gained was your "overtime pay". Often the booking procedures for clients took a long time, to no fault of your own: the clients credit card was declined, so they had to go across town to their bank to get cash/money order, there was an issue with a booking system which caused a delay, or a client called in the last 10 minutes of your shift to finally book something complicated you had been trying to sell them for weeks. All of the above frequently resulted in spending hours at the office after the end of your shift. If there was an issue with one of your bookings while you were off, it was not unheard of for you to go into the office to deal with it, as your fellow 'Flighties' were often too busy to deal effectively with the issue. I can remember even going into the office once after 11 pm as I had booked a friend's parents a flight to Australia, and I was contacted at home that there was an issue and had to get out of my pajamas to go into the office to deal with it. Again because I had made commission on these files when I sold it, months before, it was communicated to me that was my overtime. It was mentioned from the start of my training that you never made plans with family or friends until at least an hour after you shift, because it was so commonly expected that you stay late. There were even times when I would be called by a co-workers client in destination with an issue that needed direct and immediate attention on the co-workers day off, and I would be helping their client well passed the end of my shift, and I would receive nothing for that work.

I now live in Victoria, BC, and because of the Covid19 outbreak, and because I am self-employed with no vacation time, unfortunately I will not be able to get on a plane to attend the hearing in Ontario.

Warm Regards,  
Lisa Simpson

## Tanya Atherfold

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**From:** mark gardner <markhantelmann@gmail.com>  
**Sent:** November 2, 2020 4:08 PM  
**To:** Tanya Atherfold  
**Subject:** Re: Class Council

My Name is Mark Hantelmann: I worked with Flight Centre from 2011-2018, I would like to be available however I am in edmonton and cannot attend.

I realize this is late and my apologies. I can just state that I worked for flight centre for 8 years and I worked an immense amount of overtime. In my last two years, I started keeping track and it was a min of 20 hrs a week. It ruined time with my family and was expected of us.

Especially as a manager, it was very taxing and left me very little family time.

I would most days leave 30 min late rush home barley eat and finish up all night sometimes until midnight. It caused me depression and anxiety and could not do my job as well as I should and there was no one who would listen. I reached to HR a few times on def ears.

I am very happy to hear something that has been done.

Thank you,

Mark Hantelmann

On Mon, Nov 2, 2020 at 2:06 PM mark gardner <[markhantelmann@gmail.com](mailto:markhantelmann@gmail.com)> wrote:

I realize this is late and my apologies. I can just state that I worked for flight centre for 8 years and I worked an immense amount of overtime. In my last two years, I started keeping track and it was a min of 20 hrs a week. It ruined time with my family and was expected of us.

Especially as a manager, it was very taxing and left me very little family time.

I would most days leave 30 min late rush home barley eat and finish up all night sometimes until midnight. It caused me depression and anxiety and could not do my job as well as I should and there was no one who would listen. I reached to HR a few times on def ears.

I am very happy to hear something that has been done.

Thank you,

Mark Hantelmann

**Tanya Atherfold**

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**From:** Katherine Paquette <kpaquette12@gmail.com>  
**Sent:** November 3, 2020 9:54 AM  
**To:** Tanya Atherfold  
**Subject:** APS v. Flight Centre Travel Group (Canada) INC. - Court File No - CV 19-00614755-00CP

To whom it may concern,

I agree, and support the lawsuit of APS v. Flight Centre Travel Group (Canada) INC. Based on compensation to members of the class for unpaid hours, including overtime hours.

I was with Flight Centre for a short time, due to covid.

Please let me know the steps I need to take to be part of this Class Action.

Kind regards,  
Katherine Paquette  
6133716954

**Tanya Atherfold**

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**From:** lily alilovic <lilyalilovic@hotmail.com>  
**Sent:** November 6, 2020 12:26 AM  
**To:** Tanya Atherfold  
**Subject:** Aps v. Flight Centre Travel Group (Canada) Inc. class action

Hi Tanya,

I would like to send my approval and support of the settlement that was reached with Flight Centre.

Having worked in the environment; I too witnessed the same and believe the court should approve the settlement.

I will not be in attendance at the court hearing.

Thank you;  
Lily Alilovic

**Tanya Atherfold**

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**From:** Susan Crawford <suzyesee@gmail.com>  
**Sent:** November 2, 2020 2:23 PM  
**To:** Tanya Atherfold  
**Subject:** Class action with FC

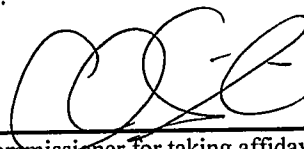
Hi there,

I am writing to support the approval of the class action suit against Flight Centre for unpaid overtime. I worked in the retail environment for 10 years and worked countless amounts of overtime that were not mentioned. I was a team leader and was taught to encourage employees to work overtime by creating 'by in' to the company. I was not planning on attending the hearing as I've since moved out of the city.

Please let me know if this is suitable or if you require anything more from me.

Susan Hulsman (Crawford)

This is Exhibit "B" referred to in the Affidavit of Tanya Atherfold-Desilva affirmed before me, this 6<sup>th</sup> day of October, 2020.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal line.

A Commissioner for taking affidavits, etc.

**Goldblatt Partners LLP**

**Summary of Time/Fees and Disbursements**

*Aps v. Flight Centre Travel Group (Canada) Inc. / CV-19-641755-CP*

<b>FEES</b>				
<i>Lawyer</i>	<i>Year of Call</i>	<i>Hourly Rate</i>	<i>Hours</i>	<i>Fees</i>
James K. McDonald	1978	\$800	1.0	\$800.00
Ethan Poskanzer	1979	\$800	1.0	\$800.00
Steven Shrybman	1981	\$800	37.1	\$29,680.00
Steven Barrett	1985	\$800	0.3	\$240.00
Fiona Campbell	1990	\$600	0.6	\$360.00
Susan Philpott	1990	\$600	7.4	\$4,440.00
Charles Sinclair	2000	\$600	135.1	\$81,060.00
Clio Godkewitsch	2002	\$600	17.3	\$10,380.00
Christine Davies	2009	\$525	1.4	\$735.00
Nadine Blum	2006	\$525	132.5	\$69,562.50
Kirsten Mercer	2007	\$525	14.5	\$7,612.50
Jody Brown	2010	\$525	7.1	\$3,727.50
Mariam Moktar	2013	\$500	95.3	\$47,650.00
Joshua Mandryk	2015	\$450	402.8	\$181,260.00
Kiran Kang	2016	\$375	14.8	\$5,550.00
Sarah Rostrom	2018	\$350	1.1	\$385.00
Emily Li	2019	\$350	17.3	\$6,055.00
David Sworn	2020	\$300	13.5	\$4,050.00
Melanie Anderson	2020	\$300	53.8	\$16,140.00
Student	-	\$250	47.2	\$11,800.00
Law Clerk	-	\$200	156.9	\$31,380.00
<b>TOTAL:</b>			<b>1,158</b>	<b>\$513,667.50</b>

<b>DISBURSEMENTS</b>	
<i>Description</i>	<i>Amount</i>
Agency Fees	\$584.75
Court Fees*	\$540.00
Courier	\$40.06
Corporate Searches*	\$95.50
Corporate Searches	\$415.96
Conference Calls	\$27.62
Legal Research	\$150.00
Media/Website	\$2,949.33
Mediator (Joel Wiesenfeld)	\$9,000.00
Meals/Transportation	\$199.20
Miscellaneous	\$192.19
Notice of Hearing (Trilogy Class Actions)	\$19,500.00
Photocopies (internal)	\$173.50
Photocopies (external)	\$561.06
Process Servers	\$305.00
<b>Subtotal</b>	<b>\$34,734.17</b>
<b>HST</b>	<b>\$4,432.83</b>
<b>TOTAL</b>	<b>\$39,167.00</b>

\* Non-Taxable



APS v. FLIGHT CENTRE TRAVEL GROUP (CANADA) INC.

Court File No.: CV-19-00614755-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

PROCEEDING UNDER THE *CLASS PROCEEDING  
ACT, 1992*

**AFFIDAVIT OF TANYA  
ATHERFOLD-DESILVA  
(Sworn November 6, 2020)**

**GOLDBLATT PARTNERS LLP**  
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Lawyers for the Plaintiff

Aps  
Plaintiff

Flight Centre Travel Group (Canada) Inc.  
Defendant

Court File No.: CV-19-00614755-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**SUPPLEMENTARY MOTION  
RECORD OF THE PLAINTIFF  
(Returnable November 9, 2020)**

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Lawyers for the Plaintiff