

C A N A D A

(Class Action)

PROVINCE OF QUEBEC

SUPERIOR COURT

DISTRICT OF MONTREAL

N<sup>o</sup> : 500-06-001261-235

██████████ COHEN

*Plaintiff*

vs.

ESTÉE LAUDER COSMETICS LTD

-and-

THE ESTÉE LAUDER COMPANIES INC.

*Defendants*

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**APPLICATION TO APPROVE A CLASS ACTION SETTLEMENT AND FOR  
APPROVAL OF CLASS COUNSEL FEES**

(Article 590 C.C.P. and Article 32 of an *Act respecting the Fonds d'aide aux actions collectives*, CQLR c. F-3.2.0.1.1.)

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**TO THE HONOURABLE JUSTICE ENRICO FORLINI OF THE SUPERIOR COURT OF QUEBEC, DISTRICT OF MONTREAL, DESIGNATED TO PRESIDE OVER THE PRESENT CLASS ACTION, THE PLAINTIFF RESPECTFULLY SUBMITS THE FOLLOWING:**

**OVERVIEW OF THIS APPLICATION AND RELEVANT FACTS**

**BACKGROUND**

1. On or about September 7, 2023, this action was commenced via the filing of an Application for Authorization to Institute a Class Action Pursuant to Articles 574

and following of the Code of Civil Procedure (“C.C.P.”), before the Superior Court of Québec, District of Montreal (the “**Class Action**”).

2. The law offices of Osler, Hoskin & Harcourt LLP filed an Answer to the Summons on October 31, 2023.
3. This action arises out of the confidentiality incidents involving personal information held by Defendants that allegedly occurred on or about May 31, 2023 and on or about July 12, 2023 (the “**Data Incidents**”).
4. On February 13, 2024, a case management hearing was held before the Honourable Justice Lucas. As ordered by the Court that day, the parties submitted that same day a timetable of steps toward the eventual authorization hearing.
5. On March 13, 2024, Defendant ESTÉE LAUDER COSMETICS LTD. filed its Application for leave to adduce relevant evidence and to examine the Plaintiff. Said Defendant then filed its argument plan and authorities in support of same on March 25, 2024.
6. On or about May 10, 2024, the Plaintiff filed her Application for permission to amend and the proposed Amended Application for Authorization to Institute a Class Action, to *inter alia* add in additional allegations and exhibits, and in order to add a second Defendant, namely THE ESTÉE LAUDER COMPANIES INC.
7. On June 17, 2024, this Honourable Court issued the Judgment permitting the amendment including the addition of the new Defendant.
8. The law offices of Osler, Hoskin & Harcourt LLP filed an Answer to the Summons on behalf of the new Defendant on August 22, 2024.
9. The parties then entered into many months of serious arm’s-length settlement negotiations, which included remote and in-person meetings between the parties.
10. The parties ultimately reached an agreement in principle in September of 2025.
11. There has not been any other class action proceeding filed, anywhere, in relation to the Data Incidents.
12. On April 20, 2026, after further extensive arm’s-length negotiations, the Parties reached a Canadian National Settlement Agreement (the “**Settlement Agreement**” or the “**Canadian National Settlement Agreement**”) to fully and finally settle all claims asserted by the plaintiff and the class members against the Defendants in relation to the Class Action and the stemming from the Data Incidents, a copy of the signed Settlement Agreement, in both English and French, are communicated together with the present Application as **Exhibit R-1, en liasse**.

13. The Plaintiff and the Defendants have agreed to the terms of the Settlement Agreement, subject to the approval of this Honourable Court, without any admission of liability whatsoever by the Defendants and for the sole purpose of resolving the dispute between them.
14. The Settlement Approval hearing before this Honourable Court has been scheduled for June 3, 2026.
15. On April 21, 2026, the parties filed an Application for Approval of Notices to Members, Authorization for Settlement Purposes of the Class Action, and to Set a Date for Approval of the Settlement Agreement.
16. This Honourable Court issued Pre-Approval Judgment on April 22, 2026, approving the Pre-Approval Notices and the Pre-Approval Notice Program, authorizing, for settlement purposes only the Class Action on a national basis, appointing Concilia Services Inc. as Claims Administrator, and fixing the date, time and place of the Approval Hearing, together with objection and opt out mechanics.
17. The Opt-out Deadline is June 1, 2026.
18. Unless otherwise modified by this Application, capitalized terms have the meaning ascribed in the Settlement Agreement and shall apply and are incorporated herein by reference.
19. Pursuant to the Court-approved Notice Program, as of April 27, 2026, Concilia began the required steps of the Notice Program (as provided for in the Settlement Agreement and the Pre-Approval Judgment). These steps will be more fully detailed in Concilia's *Pre-Approval Notice Plan Report* which has not yet been received and which will be filed prior to the Settlement Approval Hearing, as **Exhibit R-2**.
20. In addition, the undersigned attorneys published the Settlement Agreement, the Pre-Approval Judgment, as well as the relevant Pre-Approval Notices, on both their firm's website and the Quebec Class Actions Registry.
21. Given the nature of this Application, Class Counsel must broadly outline its efforts in advancing the litigation, as well as certain aspects of the claims, defences, and settlement negotiations. Nothing in this Application or the accompanying sworn declarations is intended to waive, nor shall it be construed as waiving, any attorney-client, litigation, or other applicable privilege or confidentiality protections.
22. The Plaintiff hereby respectfully seeks this Honourable Court's approval of:
  - (a) the Canadian National Settlement Agreement;

- (b) the Post-Approval Notice Program (included in Schedule A to the Settlement Agreement);
- (c) the Settlement Approval Notice (Schedule C.1 to the Settlement Agreement);
- (d) The *Avis d'approbation du règlement* (Schedule C.2 to the Settlement Agreement);
- (e) The Press Release Post-Approval (Schedule D1 to the Settlement Agreement);
- (f) The *Communiqué de presse post-approbation* (Schedule D2 to the Settlement Agreement);
- (g) Class Counsel Fees and Disbursements as detailed at Section XIII of the Settlement Agreement, with applicable taxes.

### **TERMS OF THE SETTLEMENT AGREEMENT**

- 23. As mentioned, the Settlement Agreement was executed on April 20, 2026, and is subject to approval by this Honourable Court. It does not constitute, and shall not be construed as, an admission of liability or the truth of any allegations by either Defendants or the Plaintiff in the Class Action.
- 24. Pursuant to the Settlement Agreement, Defendants agreed to pay total all-inclusive amount of one million five hundred fifteen thousand Canadian dollars (CAD \$1,515,000.00) (the "**Settlement Fund**"). Following deduction of class counsel fees and disbursements in the Class Action, and administrative costs, the remaining balance of the Settlement Fund will be distributed in accordance with the structure outlined below:
  - **Substantiated Losses.** Class Members who submit a timely and valid claim with supporting documentation evidencing out-of-pocket losses reasonably attributable to the Data Incidents may receive up to CAD \$5,000, subject to the overall Settlement Fund and the *pro rata* provisions described below.

- **Unsubstantiated Losses.** Class Members who submit a timely and valid claim without supporting documents may receive:
    - CAD \$150 if the Class Member falls within only one of the Data Incidents (the “**First Group**”);
    - CAD \$300 if the Class Member falls within both of the Data Incidents (the “**Second Group**”).
    - Class Members who are entitled to a Monetary Benefit for Substantiated Losses will also be entitled to receive a Monetary Benefit for Unsubstantiated Losses.
    - Claims for Substantiated Losses will be paid from the Settlement Fund before any amount is paid regarding the claims for Unsubstantiated Losses.
    - If funds remain after payment of approved Substantiated Losses, the Unsubstantiated Losses claims may be increased up to a maximum of CAD \$300 for First Group claimants and up to a maximum of CAD \$600 for Second Group claimants in addition to their claim for Substantiated Losses, if applicable.
  - **Pro rata adjustments.** If the total value of approved claims exceeds the funds remaining in the Settlement Fund, payments will be reduced proportionally on a *pro rata* basis. If, after such *pro rata* reduction, the value of each individual payment would be less than CAD \$3.00, no individual payments will be issued to Class Members. In such event, all remaining Settlement Funds will be distributed to the charitable organizations identified below, after payment of the *Fonds d’aide aux actions collectives* levy (if applicable). Conversely, if the total value of approved claims does not exhaust the Settlement Fund, payments of the claims for Unsubstantiated Losses may be increased proportionally on a *pro rata* basis, subject to the maximum caps specified above.
  - **The Fonds d’aide aux actions collectives (the “FAAC”)** is legally entitled to receive a percentage of the Québec portion of any remaining balance from the Settlement Fund, according to the *Regulation respecting the percentage withheld by the Fonds d’aide aux actions collectives*. After the FAAC has been paid said levy, as applicable, the remainder will be distributed in equal parts to the following charitable organizations: the Jewish General Hospital Foundation and Chai Lifeline Canada.
25. The Class Members will therefore have nothing to pay in order to participate in the class action and proposed Settlement.

## APPROVAL OF THE SETTLEMENT AGREEMENT

26. The Plaintiff, with the approval and support of Defendants, seek this Honourable Court's approval of the Settlement Agreement, including its recitals and schedules, and the issuance of the Settlement Approval Order binding the Parties and Class Members to its terms, for the reasons set out below and to be further addressed at the Settlement Approval Hearing.
27. Article 590 of the *C.C.P.* requires that this Honourable Court approve a transaction settling a class action. It must be satisfied that the terms of the settlement are fair, reasonable, and in the best interests of the class.
28. The Parties respectfully submit that the Settlement Agreement is fair, reasonable, and equitable in its entirety. The Plaintiff further submits that it is in the best interests of the Class Members and constitutes an adequate resolution of the Class Action, for the reasons set out below.

### Probability of Success

29. While the Plaintiff maintains that her claims are well-founded, Defendants vigorously deny all allegations. Absent settlement, the Parties would have engaged in a highly contested debate regarding the Data Incidents (including how and why they occurred), the alleged faults and negligence of Defendants in relation to the Data Incidents (and thereafter), the applicable law across the country, and the existence and quantum of damages, all of which are issues that would have significantly impacted the Court's assessment of the case on its merits.
30. The continued litigation of the class action is estimated to take at least five years, not including potential appeals. A trial would have also required extensive discovery, expert evidence from both Parties, and testimony from Class Members.
31. As in all class actions, there was an ongoing risk that the action would not succeed on the merits after years of litigation. This risk is mitigated by the Settlement Agreement, which guarantees compensation to Settlement Class Members.
32. As this Honourable Court had also previously mentioned in the case of *Abihsira vs. Ticketmaster Canada LP et. al.*, 500-06-001153-218, December 7, 2022, at paragraphs 29-31:

“[29] Any litigation involves some level of risk.

[30] One of these serious risks to such litigation was recently confirmed on the merits of a class action in *Union des consommateurs c. Air Canada* [2022 QCCS 4254,

paras. 38-45, 140, 154, 156, 158, 160, 186]. where the Court, after concluding that Air Canada committed a violation of the *Consumer Protection Act*, dismissed the class action because it concluded that consumers would have paid the final price regardless and, as such, did not suffer any prejudice. Even if this judgment is eventually under appeal, it illustrates the serious risks faced by the Representative Plaintiff and the Class members.

[31] The risk that the Class action be unsuccessful on the merits, after many years of litigation, is always present.”

### **Recommendation of Experienced Counsel and Approval of the Plaintiff**

33. Class Counsel in the Class Action and counsels for Defendants, all of whom have significant expertise in class actions, including consumer and data breach matters, jointly negotiated and recommended the terms of the Settlement Agreement.
34. Class Counsel believes the Settlement is fair and reasonable to the Class Members, given the risks associated with continuing the litigation and the immediate benefits the Settlement provides, and that it respects the rule of proportionality.
35. Defendants consent to the present Application to approve the class action settlement and seeks to have the Settlement Agreement approved by the Court.
36. Plaintiff is fully informed of the case and has entered into the Settlement Agreement on her behalf and on behalf of the Class Members.

### **Future Expenses and Probable Length of the Litigation**

37. If the case were to proceed, it would involve protracted litigation, extensive and costly discoveries, and significant expert costs, as detailed above. As previously mentioned, a decision on the merits would likely take several years to be rendered, with any judgment subject to appeal and further delay.
38. Approving the Settlement Agreement serves the interests of judicial economy and proportionality.

### **Number and Nature of Opt-Outs and/or Objections**

39. In the Pre-Approval Order dated April 22, 2026, this Honourable Court approved and ordered the Notice Program for the Pre-Approval Notices, which was completed by Concilia and the undersigned attorneys, as mentioned above.

40. Indeed, and to date, many class members have contacted the undersigned attorneys and the Claims Administrator eager to participate in the eventual Settlement, if approved.
41. The opt out deadline having been set for June 1, 2026, the *Pre-Approval Notice Plan Report* (Exhibit R-2, which is to be filed before the hearing herein), will confirm the total amount of opt-out requests received herein. That being said, Concilia has confirmed that as of May 27, 2026, it had received 41 opt outs.
42. In addition, Concilia has confirmed that it received 5 objections or comments regarding the Settlement (2 of which seem to support the Settlement in fact), copies of which are communicated herewith as **Exhibit R-3, en liasse**.
43. The undersigned attorneys did not receive any objections/comments to the Settlement Agreement on or before the objections/comments deadline of May 14, 2026.
44. The undersigned attorneys will inform the Court if they or the Claims Administrator receive any objections or comments to the Settlement before the Quebec Settlement Approval Hearing

#### **Good Faith of the Parties and Absence of Collusion**

45. The Settlement Agreement is the result of good faith, adversarial, and very lengthy arm's-length negotiations.
46. As detailed above, Defendants contested all aspects of the Class Action, and the hard-fought, adversarial settlement negotiations spanned several months.

#### **APPROVAL OF CLASS COUNSEL FEES AND DISBURSEMENTS**

47. The undersigned attorneys (Class Counsel) signed a Professional Mandate & Attorneys' Fee Agreement which the Plaintiff (the "**Mandate Agreement**") on September 7, 2023.
48. The Mandate Agreement provides for the following calculation of Class Counsel Fees:
  - a. all disbursements incurred;  
and
  - b. attorneys' fees with regard to the present class action of the higher of the following two calculations:

(i) an amount equal to thirty-three percent (33%) of the total amount received, including interest, from any source whatsoever, whether by settlement or by judgment;

or

(ii) an amount equal to multiplying the total number of hours worked on by the attorneys or other professionals in accordance with their hourly rates, which range between \$350 and \$750 per hour. This amount will then be multiplied by a multiplier 3.5 to arrive at the total fee. (The hourly rates are reviewed from time to time)

and

c. all applicable taxes on said amounts in paragraphs (a) and (b).

These attorneys' fees extend to all sums received for and in the name of the whole group affected by the present class action (or potentially received if determined on a collective basis) and are in addition to the judicial fees that can be attributed to the attorneys. In the case where a specific amount of money is not awarded collectively, whether by settlement or by judgment, or where each class member is compensated only for their individual claim, section b. (i) above shall be read to mean thirty-three percent (33%) of the total value as if every possible class member made such a claim.

49. A mandate agreement between a representative plaintiff and class counsel binds the class members. Where such an agreement is fair, reasonable, and consistent with the *Civil Code of Québec*, the Court should uphold and apply it in its entirety<sup>1</sup>.
50. Indeed, the mandate agreement is to be presumed valid and binding according to case law<sup>2</sup>.

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<sup>1</sup> *Guilbert c. Sony BMG Musique (Canada) inc.*, [2007 QCCS 432](#), paras. 26 & 45 (confirmed by the Court of Appeal in *Sony BMG Musique (Canada) inc. c. Guilbert*, [2009 QCCA 231](#))

<sup>2</sup> *Nam c. 9050-8391 Québec inc.*, [2024 QCCS 3672](#), at par. 117; *Option Consommateurs c. Banque Amex du Canada*, [2018 QCCA 305](#), at par.66-69; *Beauchamp c. Procureure générale du Québec*, [2019 QCCS 2421](#); *Association des*

51. Pursuant to Section XII of the Settlement Agreement, Class Counsel requests that this Honourable Court approve payment out of the Settlement Fund of Class Counsel Fees in a fixed amount of CAD \$454,500, plus GST and QST, representing all extrajudicial fees and taxes, plus disbursements as detailed below.
52. The signed Settlement Agreement provided for these Class Counsel Fees and Disbursements and Defendants do not object the present application for approval of same.
53. According to the Preamble paragraph G, the Parties and their respective counsel have concluded that this Settlement Agreement is fair, reasonable, and in the best interests of the Parties and the Class Members.
54. More over, clause 26 of the Settlement Agreement provides and confirms that the Defendants do not object to Class Counsel's application for the approval of Class Counsel Fees and disbursements and that: "Based on their knowledge of the case and Settlement, the Defendants agree that the Class Counsel Fees and disbursements are fair and reasonable under the circumstances of the Settlement".
55. These fees are justified by the time and effort invested by Class Counsel in the Class Action (as detailed below), in initiating, pursuing, and prosecuting the Class Action and for negotiating and concluding the Settlement Agreement, as well as the significant risk assumed in undertaking the matter on a contingency basis.
56. In addition, since the execution of the Settlement Agreement, Class Counsel have continued, and will continue, to devote considerable time to responding to Class Members' inquiries, maintaining bilingual updates for Class Members on their firm's websites and corresponding with counsel for Defendants, and if necessary the media.
57. Finally, Class Counsel have not received any funding from the *Fonds d'aide aux actions collective* for this Class Action.
58. With respect to calculating the total settlement value under the Mandate Agreement, the Honourable Justice Lussier, J.S.C. confirmed (in another Data Breach Class Action Settlement) that all benefits to Class Members, along with administration, notification, and publication costs, and Class Counsel Fees and disbursements, should be included: *Benabou c. StockX*, [2022 QCCS 2527](#) (par. 43 (v)):

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*jeunes victimes de l'église c. Harvey*, [2022 QCCS 1956](#); *A.B. c. Clercs de Saint-Viateur du Canada*, [2022 QCCS 2484](#); *Regroupement des citoyens du quartier Saint-Georges inc. c. Alcoa Canada Itée*, [2022 QCCS 2071](#).

“The amount of Class Counsel Fees under the Settlement Agreement is lower than what was agreed to in the Professional Mandate & Attorneys’ Fee Agreement signed with the Plaintiff. It also represents a more than reasonable percentage of the total amount to be potentially reimbursed to class members pursuant to the Settlement. In addition, and according to case law, the calculation of the total settlement value would take into account not only this amount to be potentially distributed, but also the TransUnion credit monitoring services to be offered free of charge to all 122,970 Class Members across Canada, the administration costs, the publication/notification costs, and the Class Counsel Fees”.

59. This reasoning was also confirmed by the Honourable Justice Hamilton, J.S.C. (as he then was, now of the Court of Appeal) in yet another Data Breach Class Action file: *Zuckerman c. Target Corporation Inc.*, 2018 QCCS 2276 at par. 32 (iii) and footnote 16<sup>3</sup>.
60. Québec class action case law generally applies either a percentage ranging from 15% to 33%, or a multiplier ranging from 2 to 6.15<sup>4</sup>. Although the Court of Appeal moved away from the systematic use of multipliers in *Clercs de Saint-Viateur du Canada*, the Court in *Marcil c. Commission scolaire de la Jonquière*, [2018 QCCS 3836](#), catalogued numerous cases where multipliers as high as 6.15 were approved<sup>5</sup>.
61. As of the date of this Application (May 28, 2026), Class Counsel Lex Group Inc. has docketed a total of 139.15 **hours** in the Class Action. This represents extra-judicial legal fees totaling **\$104,362.50 before taxes**, as follows:

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3 Also see *Rabin c. HP Canada Co.*, 2019 QCCS 1511 at par 26 and footnote 6.

4 *Marcil c. Commission scolaire de la Jonquière*, [2018 QCCS 3836](#), par. 125 at footnote 22; *Option Consommateurs c. Banque Amex du Canada*, [2018 QCCA 305](#), paras. 36 (citing para. 112 of the decision rendered in first instance), 66 (see footnotes 33 and 34 citing *Pellemans c. Lacroix*, [2011 QCCS 1345](#), where the Court approved a 4.5 multiplier at paras. 121-123) and 73.

5 *Marcil c. Commission scolaire de la Jonquière*, [2018 QCCS 3836](#), par. 125 at footnote 22 :

« Voir, par exemple, les affaires *Surprenant c. Société canadienne de la Croix-Rouge*, [2001] AZ- 50667013 (C.S.), par. 3 (multiplicateur de 3,4); *Desjardins c. Canada (Procureur général)*, [2007 QCCS 2797](#), par. 93 (multiplicateur de 3,75); *Pellemans*, par. 121 (multiplicateur de 4,5); *Adams*, par. 29, 33 (multiplicateur implicite de 6,15); *Brown*, par. 71 (multiplicateur de 4); *Parsons v. Canadian Red Cross Society*, [2000 CanLII 22836](#) (ON SC), par. 66 (appel rejeté sur requête : *Parsons v. Canadian Red Cross Society*, [2001 CanLII 24094](#) (ON CA); (demande d’autorisation de pourvoi à la Cour suprême du Canada rejetée) (multiplicateurs entre 3,07 et 4,29). »

Lawyer and Firm	Year of Call	Hourly Rate	Amount of Fees in CAD ( <u>Before Taxes</u> )
David Assor	2001 (Quebec)	\$750.00	\$104,362.50
	2021 (Ontario)	(139.15 hours)	
	2025 (British Columbia)		

62. In addition, a total of **\$1,989.46 in disbursements (taxes included)** have been incurred and paid by Class Counsel.
63. Based on the undersigned Class Counsel's experience administering other class action settlements, ongoing work will be required beyond the final approval hearing. In this case, the undersigned Class Counsel estimate the value of that work to be approximately \$30,000.
64. Accordingly, the Class Counsel Fees requested under the Settlement Agreement is lower than those agreed to in the Mandate Agreement signed with the Plaintiff and represent a more than reasonable percentage of the total settlement value.
65. Indeed, the Mandate Agreement provides for 33% of the Settlement Fund, which would represent \$499,950 plus taxes.

#### **Time to be Spent by Class Counsel**

66. As mentioned above, based on their past experience administering class action settlements, Class Counsel anticipates ongoing obligations beyond the final approval hearing, notably concerning the claims process and reporting to the Courts.
67. This includes being available to Class Members in the coming months (or longer) to address any questions or issues related to the Class Action.
68. At all times during the proceedings, and continuing thereafter, Class Counsel has engaged and will continue to engage with Class Members in the language of their choice (French or English), to keep them informed.
69. No additional fees or disbursements will be sought by Class Counsel for this future work.

### **The Attorneys' Experience**

70. Me David Assor is a member in good standing of the Quebec Bar since 2001, of the Law Society of Ontario since 2021, and of the Law Society of British-Columbia since 2025. Me Assor has practiced general commercial and civil litigation since 2001 and specialized in plaintiff-side class action litigation since 2005. In 2011, Me Assor created the law firm of Lex Group Inc. which is also specialized in litigation in general and class actions in particular. As such, a vast majority of class counsel's work is in class actions which are all done on a contingency basis, meaning that for cases that are not successful, the firm receives no payment for work performed, which in some cases is quite significant.
71. Me Assor has also been a repeat contributor / writer on class action issues and case law on the legal research website *La référence* and is a repeat guest lecturer on the topics of class actions and privacy law at the McGill University Faculty of Law.
72. Me Assor has been a sitting member of the Quebec Bar's Disciplinary Committee since 2016, is a sitting member of the Bar of Montreal's Liaison Committee with the Superior Court in Civil Matters since 2023, has been a member of the board of directors of the Lord Reading Law Society since 2016 (former Bar Liaison), has sat as a member of the Bar of Montreal's Access to Justice in the English Language Committee from 2016 to 2019, was a member of the Advocates' Society, and was named a Governor of the Quebec Bar Foundation in 2020.
73. At all relevant times, Lex Group Inc. paid regular salaries to its staff and professionals all the while continuing to prosecute this class action, and other class actions, without any guarantee of compensation.

### **Time Dedicated**

74. As detailed above, Class Counsel has dedicated significant time and incurred disbursements in this matter, all without any guarantee of payment.
75. From the outset, this litigation was high-risk. Class Counsel conducted extensive legal research and document review in support of the claim and engaged with interested Class Members.
76. The process of finalizing the Settlement Agreement continued for many months. Further work was undertaken in anticipation of the notice approval and settlement approval hearing, including the drafting of the present Application.
77. Class Counsel will also be maintaining contact with Class Members who reach out to Lex Group Inc. by phone or email, as outlined in the Settlement Agreement.

### **The Importance of the Issue**

78. Privacy and consumer protection issues are very important and are directly related to access to justice for thousands of individuals. Claims of this nature often may involve relatively small sums, making individual lawsuits unlikely.
79. As such, class actions are often the only way to obtain justice against large companies or institutions.
80. Without the Class Action, many Class Members likely would not have pursued individual actions.

### **The Difficulties of this Case**

81. Litigating this case at trial would have required the Plaintiff to prove, among other things (none of which was admitted by Defendants):
  - a. that Defendants were at fault and were negligent in relation to the Data Incidents and in their actions and notices that followed the Data Incidents;
  - b. that Class Members have suffered compensable damages;
  - c. that the Class Members can claim punitive damages.
82. As mentioned, this Honourable Court mentioned in the case of *Abihisira vs. Ticketmaster Canada LP et. al.*, 500-06-001153-218, December 7, 2022, at paragraphs 29-31:

“[29] Any litigation involves some level of risk.

[30] One of these serious risks to such litigation was recently confirmed on the merits of a class action in *Union des consommateurs c. Air Canada* [2022 QCCS 4254, paras. 38-45, 140, 154, 156, 158, 160, 186]. where the Court, after concluding that Air Canada committed a violation of the *Consumer Protection Act*, dismissed the class action because it concluded that consumers would have paid the final price regardless and, as such, did not suffer any prejudice. Even if this judgment is eventually under appeal, it illustrates the serious risks faced by the Representative Plaintiff and the Class members.

[31] The risk that the Class action be unsuccessful on the merits, after many years of litigation, is always present.”

83. The claims in this matter would have been the subject of extensive debate and contestation, requiring extensive testimony, including extensive expert evidence by all parties.

### **The Risk Assumed**

84. As is often the case in class actions, the risk of success or failure was borne entirely by Class Counsel, who undertook the cases on a contingency basis.

85. This meant that neither the Plaintiff nor any Class Members were asked to contribute to legal fees or disbursements.

86. Indeed, the Mandate Agreement provides the following:

5. The parties agree that neither the Representative nor the members of the group will be required to pay any fees, disbursements, or costs other than those provided for in paragraph 2 of the present Agreement.

87. As detailed above, Defendants vigorously contested all elements of the Class Action, for many years.

88. Given that, in the case of failure, Class Counsel receives nothing – and even risks losing – in the case of success, they should be properly compensated for their efforts and for the financial risk they assumed.

89. The Court of Appeal has confirmed the following in the often-cited case of *A.B. c. Clercs de Saint-Viateur du Canada*, [2023 QCCA 527](#):

[54] Il est ainsi généralement admis que pour apprécier le caractère juste et raisonnable des honoraires, le juge doit aussi considérer le risque couru par les avocats. **Dans le contexte d’une convention d’honoraires à pourcentage, la Cour supérieure a reconnu que ce facteur pourrait même primer sur le temps consacré au dossier par les avocats. Dans tous les cas, le risque doit s’apprécier au moment où les avocats ont reçu le mandat du représentant, et non au moment de la demande d’approbation.**

(Emphasis added).

90. This Honourable Court also emphasized the importance of rewarding the risk taken by Class Counsel in approving the *Herron* settlement: <sup>6</sup>

[57] Les enjeux en matière d'actions collectives sont très importants sur le plan financier et le cabinet qui accepte d'œuvrer en demande accepte d'assumer la totalité des frais du recours et de n'être payé qu'en cas de succès.

[58] Pour assurer la viabilité du véhicule procédural qu'est l'action collective, il est essentiel que des avocats compétents acceptent de prendre de tels risques. Or, sans une compensation en cas de succès qui tient compte du risque assumé, aucun avocat n'aurait d'intérêt à accepter de tels risques.

[59] Lorsque les procureurs du groupe ont accepté d'agir en l'espèce, ils ne se fiaient pas sur la possibilité qu'une entente à l'amiable soit conclue; ils étaient plutôt prêts à aller jusqu'au bout et à investir tout le temps, les efforts et les ressources financières nécessaires pour mener à terme l'action collective, ne sachant pas si le dossier sera gagné ou perdu au mérite.

91. In the recent decision of *Romano c. Danone inc.*, [2026 QCCS 1607](#) (rendered on April 17, 2026), this Honorable Court cited relevant case law and approved 30% plus taxes of the settlement fund in question stating the following:

25. Le Tribunal doit déterminer le caractère raisonnable des honoraires réclamés par les avocats du Groupe à la lumière des facteurs pertinents [28]. À cet égard, il y a lieu de remarquer que bien que le montant réclamé est élevé, notamment considérant le fait que l'Entente est intervenue avant même l'autorisation de l'action collective et que le temps et les efforts consacrés ne peuvent justifier le montant des honoraires, il appert que dans les circonstances particulières du présent dossier, dont la nature du litige et des préjudices allégués, les catégories d'indemnisation prévues à l'Entente, l'importance de l'affaire pour les Membres du Groupes, le paiement complet déjà effectué du Montant de Règlement par les défenderesses, la redistribution qui sera recherchée en cas de reliquat, et les bénéfices que retirent les Membres du Groupe d'un règlement hâtif du dossier, que l'Entente conclue représente une valeur réelle et concrète pour les Membres

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6. *Schneider (Succession de Schneider) c. Centre d'hébergement et de soins de longue durée Herron inc.*, [2021 QCCS 1808](#), par. 57-59.

du Groupe et qu'ils demeurent les premiers bénéficiaires des sommes payées par les défenderesses.

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[28] A.B., précité note 12, par. 45, 58 et 64; *Holcman c. Lightspeed Commerce inc.*, 2025 QCCS 4265, paras. 16 à 18 et 27; *Majestic Asset Management c. Banque Toronto-Dominion*, 2024 QCCS 225, paras. 100, 102, 109 et 118.

92. Class Counsel accepted the mandates in these matters starting in 2020, assuming all risks in time and disbursements, and was prepared to pursue the cases through final judgment on the merits and any appeals. It diligently advanced this litigation for years toward settlement, without receiving any fees or any guarantee of payment.
93. To preserve the important societal benefits of class actions, especially in data breach and consumer protection cases, it is important that Class Counsel receive fair compensation, ensuring appropriate incentive for future counsel.

#### **The Professional Services are Unusual and Require Specific Expertise**

94. Only a small number of attorneys in Quebec and Canada undertake class action matters, which require particular expertise and professionalism.
95. This work often involves public and media communication, such as engaging with Class Members, maintaining and updating a website, giving interviews, and issuing press releases, requiring firms to be proactive in protecting the interests of Class Members.

#### **The Result Obtained**

96. We have already fully summarized the Settlement hereinabove.
97. The extensive and effective Notice Program and the simple claims process set out in the Settlement Agreement ensure that eligible Class Members are more inclined to submit monetary claims.
98. Since the dissemination of the Pre-Approval Notices, many Class Members have already contacted the undersigned attorneys expressing their desire to participate in the Settlement and/or be included in the class action (and the Settlement being reported on by the media).

### **Fees Not Contested**

99. Defendants do not oppose the request for Class Counsel Fees and has agreed to pay the amount, as agreed and detailed in the Settlement Agreement.
100. To date, no Class Member has expressed an intention to contest this request, despite having received the Pre-Approval Notice and the information being published on Class Counsel's website and the Class Actions Registry.
101. The undersigned attorneys respectfully submit that said requested fees and disbursements are fair and reasonable in light of the circumstances and the significant, beneficial results obtained for the Class Members.
102. Similar Class Counsel fees have been approved by the Courts in comparable cases, as discussed above.

### **CONCLUSION**

103. Plaintiff and Class Counsel respectfully submit that the Court should approve the Settlement Agreement, as it is more than reasonable, appropriate, and in the best interests of the Parties and the Class Members, particularly given the complexities of the proceedings and the risks faced by the Plaintiff and by Class Counsel.
104. In reaching this settlement, Plaintiff and Defendants engaged in very lengthy arm's-length negotiations. The Settlement Agreement provides quick and accessible relief and significant compensation for Class Members, and should be approved by this Honourable Court.
105. The requested Class Counsel Fees are lower than those provided for in the Mandate Agreement and reflect the time and disbursements invested, the complexity of the cases and the risk assumed from the outset of the cases, and the substantial benefits achieved. They are fair, reasonable, and ought to be approved.
106. Defendants have reviewed this Application before its filing and consents to it being granted according to the conclusions below.

<b>POUR CES MOTIFS, PLAISE AU TRIBUNAL:</b>	<b>FOR THESE REASONS, MAY IT PLEASE THE COURT:</b>
<b>ACCORDER</b> la présente demande;	<b>GRANT</b> the present application;

<p><b>DÉCLARER</b> que l'Entente de Règlement est valide, juste, raisonnable et dans le meilleur intérêt des Membres du Groupe;</p>	<p><b>DECLARE</b> that the Settlement Agreement is valid, fair, reasonable and in the best interest of the Class Members;</p>
<p><b>APPROUVER</b> l'Entente de Règlement (incluant son Préambule et ses Annexes) conformément à l'article 590 du <i>Code de Procédure Civile</i>;</p>	<p><b>APPROVE</b> the Settlement Agreement (including its Preamble and its Schedules) pursuant to Article 590 of the <i>Code of Civil Procedure</i>;</p>
<p><b>ORDONNER</b> et <b>DÉCLARER</b> que l'Entente de Règlement est incorporée par renvoi au présent Jugement et en fait partie intégrante et qu'elle lie la Demanderesse et tous les Membres du Groupe de Règlement;</p>	<p><b>ORDER</b> and <b>DECLARE</b> that the Settlement Agreement is incorporated by reference to and forms part of this Judgment and is binding upon the Plaintiff and all Settlement Class Members;</p>
<p><b>ORDONNE</b> et <b>DÉCLARE</b> que l'Entente de Règlement (y compris son préambule et ses Annexes) est juste, raisonnable et dans l'intérêt des Membres du Groupe de Règlement, doit être mise en œuvre selon ses dispositions, et constitue une transaction au sens de l'article 2631 du <i>Code civil du Québec</i>;</p>	<p><b>ORDERS AND DECLARES</b> that the Settlement Agreement (including its Recitals and its Schedules) is fair, reasonable and in the best interest of the Settlement Class Members and constitutes a transaction pursuant to Article 2631 of the Civil Code of Quebec;</p>
<p><b>ORDONNER</b> que cette Cour conservera un rôle de surveillance permanent aux fins de la mise en œuvre, de l'administration et de l'exécution de l'Entente de Règlement en ce qui concerne les Membres du Groupe de Règlement, sous réserve des modalités et conditions prévues à l'Entente de Règlement;</p>	<p><b>ORDER</b> that this Court will retain an ongoing supervisory role for the purpose of implementing, administering and enforcing the Settlement Agreement as it pertains to the Settlement Class Members, subject to the terms and conditions set out in the Settlement Agreement;</p>
<p><b>ORDONNER</b> le recouvrement collectif des réclamations avec liquidation individuelle des réclamations des Membres du Groupe de Règlement;</p>	<p><b>ORDER</b> the collective recovery of the claims with individual liquidation of the Settlement Class Members' claims;</p>

<p><b>ORDONNER</b> que les Honoraires et Débours des Avocats du Groupe soient payés conformément à l'Entente de Règlement;</p>	<p><b>ORDER</b> that the Class Counsel Fees and Disbursements be paid in accordance with the Settlement Agreement;</p>
<p><b>APPROUVER</b> la forme, le contenu et le mode de diffusion des Avis d'approbation du règlement et du Communiqué de presse post-approbation (Annexes C.1, C.2, D1 et D2 de l'Entente de Règlement), dans leurs versions française et anglaise, et <b>ORDONNER</b> leur diffusion conformément au Programme d'avis de post-approbation (inclus dans l'Annexe A de l'Entente de Règlement);</p>	<p><b>APPROVE</b> the form, content, of the Settlement Approval Notice and the Press Release Post-Approval (Schedules C.1, C.2, D1 and D2 to the Settlement Agreement), in their French and English versions, and <b>ORDER</b> their dissemination in accordance with the Post-Approval Notice Program (included in Schedule A to the Settlement Agreement);</p>
<p><b>ORDONNER</b> à l'Administrateur des réclamations de diffuser les Avis de post-approbation et le Communiqué de presse post-approbation conformément au Programme d'avis de post-approbation (inclus dans l'Annexe A de l'Entente de Règlement);</p>	<p><b>ORDER</b> the Claims Administrator to disseminate the Post-Approval Notices and the Press Release Post-Approval pursuant to the Post-Approval Notice Program (included in Schedule A to the Settlement Agreement);</p>
<p><b>DÉCLARER</b> que tous les virements Interac effectués à l'intention des Membres du Groupe de Règlement admissibles aux termes de l'Entente de Règlement demeureront valides pendant une période de trente (30) jours, après quoi ils seront annulés.</p>	<p><b>DECLARE</b> that any Interac e-transfers issued to eligible Settlement Class Members under the Settlement Agreement will remain valid for thirty (30) days and that no Interac e-transfers can be deposited after that time and these transfers will be cancelled.</p>
<p><b>DÉCLARER</b> tous les chèques émis aux Membres du Groupe de Règlement admissibles aux termes de l'Entente de Règlement demeureront valides pendant six (6) mois à compter de leur émission. Aucun chèque ne pourra être encaissé après la fin de cette période.</p>	<p><b>DECLARE</b> that any cheques issued to eligible Settlement Class Members under the Settlement Agreement will remain valid for six (6) months from their issuance and that no cheques can be cashed after that time.</p>
<p><b>PREND ACTE</b> que les défenderesses ont déterminé et confirmé dans l'Entente de</p>	<p><b>PRAYS ACT</b> that Defendants have determined and confirmed in the Settlement</p>

Règlement que 10,4 % du Groupe de Règlement sont des résidents de la Province de Québec.	Agreement that 10.4% of the Settlement Class are residents of the Province of Quebec
<b>DÉCLARE ET APPROUVER</b> que dans le cas où la valeur de l'ensemble des Honoraires et Débours des Avocats du Groupe, des coûts d'administration des réclamations, et de la valeur des Avantages Monétaires (découlant d'une Réclamation valide de Pertes Documentées ou de Pertes Non Documentées) est inférieure aux fonds restants disponibles du Fonds de Règlement, et après que le Fonds d'aide aux actions collectives ait perçu son prélèvement sur la portion du Groupe de Règlement composée de résidents du Québec (soit 10,4 %), tout solde restant du Montant du Règlement, s'il y en a, sera distribué en parts égales à Chai Lifeline Canada et à la Fondation de l'Hôpital général juif (destiné à ses initiatives liées aux technologies de l'information).	<b>DECLARE AND APPROVE</b> that in the event that the value of the aggregate of the Class Counsel Fees and Disbursements, the claims administration costs, and the value of the Monetary Benefits (arising from a valid substantiated or unsubstantiated losses Claim) is less than the remaining funds available from the Settlement Fund, and after the Fonds d'aide aux actions collectives is paid its levy on the portion of the Settlement Class that consists of Québec residents (namely 10.4%), any remaining balance from the Settlement Amount, if any, will be distributed in equal parts to Chai Lifeline Canada and the Jewish General Hospital Foundation (earmarked towards its IT-related initiatives).
<b>LE TOUT, SANS FRAIS DU JUSTICE.</b>	<b>THE WHOLE, WITHOUT LEGAL COSTS.</b>

**MONTREAL, May 28, 2026**

(s) *Lex Group Inc.*

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**Lex Group Inc.**

**Per: David Assor**

**Class Counsel**

**Attorneys for the Plaintiff**

## SOLEMN DECLARATION

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I, the undersigned, **David Assor**, attorney, practicing law at the offices of Lex Group Inc., situated at 4101 Sherbrooke Street West, in the City of Westmount and District of Montreal, do hereby solemnly declare:

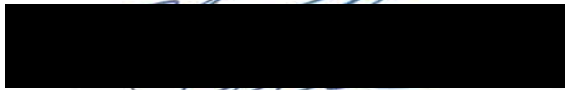
1. THAT I am one of the attorneys for the Plaintiff in the present cases;
2. THAT all the facts alleged in the present *APPLICATION TO APPROVE A CLASS ACTION SETTLEMENT AND FOR APPROVAL OF CLASS COUNSEL FEES* are true and accurate to my personal knowledge;

And I have signed:



**DAVID ASSOR**

Solemnly affirmed before me  
at Westmount (Quebec),  
this 28<sup>th</sup> day of May, 2020



Commissioner for oaths for  
the Province of Québec



## NOTICE OF PRESENTATION

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**TO:**

**Mtre Jessica Harding, Mtre Kristian Brabander, Mtre Emily Lynch**

**Osler, Hoskin & Harcourt LLP**

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*Attorneys for Defendants*

**TAKE NOTICE** that the *APPLICATION TO APPROVE A CLASS ACTION SETTLEMENT AND FOR APPROVAL OF CLASS COUNSEL FEES* will be presented for adjudication before the Honourable Justice Enrico Forlini, J.S.C., on **June 3, 2026, at 9:30 AM, in Room 17.09** of the Montréal Courthouse located at 1 Notre-Dame Street East, Montréal, Québec, or as soon thereafter as counsel can be heard.

**DO GOVERN YOURSELF ACCORDINGLY.**

**MONTREAL, May 28, 2026**

(s) *Lex Group Inc.*

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**Lex Group Inc.**

**Per: David Assor**

**Class Counsel**

**Attorneys for the Plaintiff**

N<sup>o</sup>.: 500-06-001261-235

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(Class Action Division)  
**SUPERIOR COURT**

**PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL**

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**COHEN**

*Plaintiff*

v.

**ESTÉE LAUDER COSMETICS LTD**

-and-

**THE ESTÉE LAUDER COMPANIES INC.**

*Defendants*

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**APPLICATION TO APPROVE A CLASS  
ACTION SETTLEMENT AND FOR  
APPROVAL OF CLASS COUNSEL FEES**

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**ORIGINAL**

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*Me David Assor*



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