

**SUPERIOR COURT  
(Class Action Division)**

**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTREAL**

**N°: 500-06-000722-146**

---

**RENÉ CHARBONNEAU**

Plaintiff

v.

**APPLE CANADA INC.**

**-and-**

**APPLE, INC.**

Defendants

---

**JOINT APPLICATION FOR PERMISSION TO AMEND THE SETTLEMENT  
AGREEMENT AND TO ISSUE  
ADDITIONAL NOTICE CAMPAIGN**

---

**TO THE HONORABLE JUSTICE PIERRE-C. GAGNON OF THE SUPERIOR COURT OF QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL AND DESIGNATED TO PRESIDE OVER THE PRESENT MATTER, THE PARTIES RESPECTFULLY SUBMIT AS FOLLOWS:**

**Introduction**

1. On December 3, 2014, Plaintiff René Charbonneau filed a *Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative* (the "**Application for Authorization**") against Defendants Apple Canada Inc. and Apple Inc. (hereinafter collectively referred to as "**Apple**") pursuant to Articles 1002 and following of the former Code of Civil Procedure, now Articles 574 and following of the new Code of Civil Procedure.
2. On October 5, 2018, after multiple steps and hearings, this Honorable Court (per the Honorable Justice Mark G. Peacock) rendered the Revised Rectified Authorization Judgment granting the Application for Authorization and authorizing the class action on behalf of the following Class:

1. all persons in Quebec, who purchased and/or own a 2011 MacBook Pro Laptop with a 15 inch or 17 inch screen; and
2. all persons, who purchased in Quebec, a 2011 MacBook Pro Laptop with a 15 inch or 17 inch screen;

(the "**Class Action**").

3. On May 11, 2021, this Honorable Court (per the Honorable Justice Pierre-C. Gagnon) approved the settlement of the Class Action, ordered that the Notices of Court Order Approving the Settlement be disseminated to class members, and ordered the distribution of the Total Settlement Fund, all in accordance with the Settlement Agreement dated March 1, 2021, as appears from the Court record.
4. The Settlement Agreement provides for compensation to the four following sub-groups of class members: i) Direct Group, ii) Service Group, iii) Reimbursement Group and iv) Remaining Group, as appears from the Distribution Protocol at Schedule F of the Settlement Agreement.

#### **New Notice Campaign Required**

5. Throughout the notice campaign and distribution process, the Court-appointed Claims Administrator noticed that several MacBook Pro Laptops with a 15 inch or 17 inch screen (the "**Devices**") were associated with identical addresses. After verification, it was noted that 2,275 Devices were associated with business or retail addresses where class members likely purchased their Devices, rather than the class members' addresses.
6. Once the Claims Administrator alerted Apple to this issue, Apple completed additional research using these Devices' serial numbers and was able to obtain class member contact information for 2,119 of the 2,275 Devices in question.
7. Apple therefore provided this new contact information to the Claims Administrator.
8. All of the above-mentioned Devices are part of the Direct Group (pursuant to Section 1(d) of the Distribution Protocol at Schedule F), and thus the class members associated to these Devices are entitled to a direct payment by cheque or electronic fund transfer, and are also eligible to make a claim under the Reimbursement Group (pursuant to Section 1(k) of the Distribution Protocol at Schedule F), if applicable.
9. Given that the class members associated to these Devices never received the direct Notices of Court Order Approving the Settlement, a direct notice campaign to these newly identified members associated with the 2,119 Devices is now required.
10. For clarity, the 2,275 Devices in the Direct Group that were associated with business addresses constitute approximately 14% of the Direct Group Devices, given that there are a total of 15,936 Devices in the Direct Group alone, as appears from

paragraphs 46 and 48 of the Distribution Protocol at Schedule F of the Settlement Agreement.

11. Furthermore, although there may remain 156 Devices for which new addresses were not identified, the notice campaign by newspaper that was ordered by the Court, pursuant to Section B.(2)(f) of the Notice Plan at Schedule D of the Settlement Agreement, would have covered these.
12. The parties also recently discovered that upon receiving the new contact information related to these 2,119 Devices, the Claims Administrator issued payment via cheque to several of the class members associated with these Devices.
13. Given that these class members received direct payment before receiving the direct Notices of Court Order Approving the Settlement, they must now receive said notices in order to give them the opportunity to make a claim under the Reimbursement Group, if applicable.
14. In light of the above, there are three (3) categories of class members associated with these 2,119 Devices, all in the Direct Group, that must now receive direct Notices of Court Order Approving the Settlement. They are as follows:
  - **Category 1:** The class members who never received direct payment. They must receive a copy of the Notice of Court Order Approving the Settlement filed herewith as Schedule C-1.1.
  - **Category 2:** The class members who were issued a cheque prematurely and cashed said cheque. They must receive a copy of the Notice of Court Order Approving the Settlement filed herewith as Schedule C-1.2.
  - **Category 3:** The class members who were issued a cheque prematurely but did not cash said cheque. They must receive a copy of the Notice of Court Order Approving the Settlement filed herewith as Schedule C-1.3.
15. Every class member in these above-mentioned categories must be given the opportunity to file a claim under the Reimbursement Group, if applicable.
16. In order to do so, the Claims Period given to these class members must be 90 days from the date the Notice of Court Order Approving the Settlement is sent, as appears from Section 1(b) of the Distribution Protocol at Schedule F of the Settlement Agreement.
17. The Plaintiff consents to the present application.

**FOR THESE REASONS, MAY IT PLEASE THE COURT TO:**

**GRANT** the present Application;

**AMEND** the Settlement Agreement to add Schedules C-1.1, C-1.2 and C-1.3;

**APPROVE** the additional notice campaign to the three (3) categories of class members described in paragraph 14 of the present Application;

**ORDER** the Claims Administrator to issue the additional notice campaign described in paragraph 14 of the present Application in accordance with Section B of the Notice Plan at Schedule D of the Settlement Agreement;

**ORDER** the Claims Administrator to issue payment to the three (3) categories of class members described in paragraph 14 of the present Application in accordance with the Distribution Protocol at Schedule F of the Settlement Agreement;

**ALL OF WHICH IS REQUESTED** without costs, except in the case of contestation.

**MONTREAL, October 26, 2022**

*McCarthy Tétrault LLP*

---

**MCCARTHY TÉTRAULT LLP**

Me Kristian Brabander / Me Catherine Martin /

Me Amanda Gravel

Lawyers for Defendants

2500 - 1000 De La Gauchetière Street West

Montreal (Quebec) H3B 0A2

Telephone: 514 397-4273 / 514-397-7094

Fax: 514 875-6246

**ALL NOTIFICATIONS BY E-MAIL MUST BE**

**ADDRESSED SOLELY TO**

**NOTIFICATION@MCCARTHY.CA**

File reference : 198276-469617

**AFFIDAVIT**

---

I, the undersigned, Catherine Martin, counsel practising at Suite 2500, 1000 De la Gauchetière Street W., Montreal, Quebec, solemnly affirm the following:

1. I am one of the attorneys for the Defendants, Apple Canada Inc. and Apple Inc., in the present instance;
2. All of the facts alleged in this application are true.

AND I HAVE SIGNED



---

Catherine Martin

Solemnly affirmed before me, by technological means, at Montreal, Province of Quebec, this 26th day of October 2022

*Vicky Desloges #217,710*

---

Commissioner of Oaths  
For all the districts for the Province of Quebec



# Confirmation de la transmission des documents



## Succès

Vos documents ont bien été transmis.

Numéro de demande : 2022-PROC-00290362

Date et heure de transmission :  
2022-12-01 12:56:24

Numéro de dossier judiciaire : 500-06-000722-146

Titre : Application for Permission to Issue Additional Notice Campaign

Aucun courriel de confirmation ne sera transmis. Il est recommandé d'imprimer cette page en vue de conserver ces informations pour vos dossiers.

Les documents sont traités durant les jours et les heures d'ouverture des greffes de la Cour supérieure et de la Cour du Québec dans un délai de 24h à 48h ouvrables suivant leur transmission en tenant compte des jours fériés, les demandes urgentes étant prioritaires dans un délai de moins de 24h.

[RETOURNER À L'ACCUEIL](#)

[FAIRE UN NOUVEAU DÉPÔT](#)

[Conditions d'utilisation](#)

[Accessibilité](#)

[Nous joindre](#)

Québec

No.: 500-06-000722-146  
SUPERIOR COURT  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

---

**RENÉ CHARBONNEAU**

Plaintiff

v.

**APPLE CANADA INC.**

**-and-**

**APPLE INC.**

Defendants

---

**JOINT APPLICATION FOR PERMISSION TO  
AMEND THE SETTLEMENT AGREEMENT AND TO  
ISSUE ADDITIONAL NOTICE CAMPAIGN**

---

---

**ORIGINAL**

---

Mtre Kristian Brabander /Me Catherine Martin  
O/F: 198276-469617

---

BC0847  
McCarthy Tétrault S.E.N.C.R.L., s.r.l.  
Avocats ● Agents de brevets et marques de commerce  
Barristers & Solicitors ● Patent & Trade-mark Agents

Suite 2500  
1000 De La Gauchetière Street West  
Montréal (Québec) H3B 0A2  
Tel. : 514 397-4100  
Fax : 514 875-6246

Notification by e-mail : [Notification@mccarthy.ca](mailto:Notification@mccarthy.ca)