

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No: 500-06-

500-06-001217-237

SUPERIOR COURT
(Class Action)

ALEXIA ROBERT, by her **Litigation Guardian KELLY CUNNINGTON**, a person having an address for delivery at 820 – 980 Howe Street, Vancouver BC, V6Z 0C8;

Applicant

v.

META PLATFORMS INC., a legal person duly constituted under the laws of Delaware, in the United States of America, and having its principal place of business is located at 1 Hacker Way, Menlo Park, CA 94025, USA;

and

FACEBOOK CANADA LTD., a legal person duly constituted under the laws of Canada, having their head offices at 661 University Avenue, Suite 1201, 12th floor, Toronto, Ontario M5G 1M1;

and

INSTAGRAM INC., a legal person duly constituted under the laws of Delaware, in the United States of America, and a principal place of business at 1 Hacker Way, Menlo Park, CA 94025, USA;

and

INSTAGRAM LLC, a legal person duly constituted under the laws of Delaware, in the United States of America, and having an address for service c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION
AND TO OBTAIN THE STATUS OF REPRESENTATIVE PLAINTIFF
(Art. 571 C.c.p. and following)

TO ONE OF THE HONOURABLE JUSTICES OF THE QUEBEC SUPERIOR COURT,
SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PLAINTIFF STATES AS
FOLLOWS:

PART I: INTRODUCTION

A. Class definition

1. The Applicant, Alexia Robert, by her Litigation Guardian, Kelly Cunnington, seeks the authorisation of this Honorable Court to institute a class action on behalf of the following group, of which they are a member (the "Class" or "Class Members"):

All natural persons and/or their legal representatives and/or their guardians, domiciled or having been domiciled in Quebec, who were under the age of majority when they acquired and used a Facebook and/or Instagram account

or such other CLASS definition as may be approved by this Honourable Court.

2. The Defendants—Meta Platforms Inc. and three wholly-owned subsidiaries—designed, manufactured, and operated Instagram and Facebook: integrated suites of social media products and services used daily by millions of Canadians (the "Product").¹ Motivated by their interest in boosting advertising revenues by

¹ The Product is comprised of two branded platforms—Instagram and Facebook—each offered to users through websites and related software applications for users' mobile and other devices.

prolonging users' time on the Product, the Defendants used the Product to deliberately expose children in Canada to images, videos and other content which they knew to cause or exacerbate psychological and physical harms, including eating disorders, anxiety, depression, and self-harm.

B. Defined terms

3. The following definitions apply for the purpose of this application to authorize the bringing of a class action:
 - a) "C.c.p." means *Code of Civil Procedure*, C.Q.L.R. c. C-25.01;
 - b) "C.c.Q." means *Civil Code of Québec*, C.Q.L.R. c. CCQ-1991;
 - c) "Charter" means *Charter of Human Rights and Freedoms*, C.Q.L.R. c. C-12;
 - d) "Class" or "Class Member(s)" All natural persons and/or their legal representatives and/or their guardians, domiciled or having been domiciled in Quebec, who since April 9, 2012, were under the age of majority when they acquired and used a Facebook and/or Instagram account;
 - e) "H.i.a.1" means *Hospital Insurance Act*, CQLR c A-28;
 - f) "H.i.a.2" means *Health Insurance Act*, CQLR A-29;
 - g) "C.p.a." means *Consumer Protection Act*, C.Q.L.R. c. P-40.1;

PART II: THE PARTIES

4. The Applicant Alexia Robert, by her Litigation Guardian Kelly Cunnington, is a minor residing in Saint-Bruno, Quebec, and has an address for service at 820 – 980 Howe Street, Vancouver, British Columbia.
5. The Defendant Meta Platforms Inc. ("Meta Platforms") is a Delaware company with an address for service c/o Corporation Service Company, 251 Little Falls

Drive, Wilmington, DE 19808, USA. Its principal place of business is located at 1 Hacker Way, Menlo Park, CA 94025, USA.

6. The Defendant Facebook Canada Ltd. (“Facebook Canada”) is a wholly-owned Canadian subsidiary of Meta Platforms, with its head office located at 661 University Avenue, Suite 1201, 12th floor, Toronto, Ontario M5G 1M1, and other offices around the country.
7. The Defendant Instagram, Inc. is another wholly-owned subsidiary of Meta Platforms. It is a Delaware company with an address for service c/o Incorporating Services, Ltd., 3500 South DuPont Highway, Dover, DE 19901, and a principal place of business at 1 Hacker Way, Menlo Park, CA 94025, USA.
8. Instagram, Inc., in turn, owns and controls a Delaware limited liability company—the defendant Instagram, LLC—which has an address for service c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

PART III: THE FACTS GIVING RISE TO AN INDIVIDUAL CLAIM BY THE PLAINTIFFS

A. Background

9. The Defendants offer users access to the Product free of charge. The Defendants’ primary source of revenue is advertising sales.
10. To the extent that it relies on advertising revenue to provide users a nominally free service, the Defendants’ business model is not novel or dissimilar to that of a radio station, community newspaper, or any one of hundreds of other online services.
11. But the Product has a novel characteristic which gives rise to this claim. Traditional advertisers reached audiences by selling communal spaces—on

magazine pages, billboards and airwaves. The Defendants, by contrast, display messages directly and distinctly to each of their hundreds of millions of unique users. The access advertisers purchase from the Defendants is individual and actual, rather than collective and potential. The Defendants collect data generated by user engagement and use that data to increase user engagement. Increased user engagement generates more data, which allows the Defendants to target advertisements more effectively. The longer someone uses the Product, the more targeted ads are displayed to them, and the more revenue they generate for the Defendants.

12. Where a traditional advertiser's interest was in finding more and better ad spaces to sell, the Defendants' interest is in finding ways to extend the time users stay on the Product.
13. Early versions of the Product offered users a chronological stream of updates from other users to whom they'd subscribed—friends and family, politicians, athletes, musicians, etc.—interspersed with paid advertising. Users' time spent on the Product was limited by the number of accounts they followed and the frequency with which those accounts produced new content. The stream could run dry and the user would log off.
14. Early versions of the Product offered users a chronological stream of updates from other users to whom they'd subscribed—friends and family, politicians, athletes, musicians, etc.—interspersed with paid advertising. Users' time spent on the Product was limited by the number of accounts they followed and the

frequency with which those accounts produced new content. The stream could run dry and the user would log off.

15. To encourage users to linger, the Defendants injected a third type of content into the stream: messages selected by the Defendants to engage that individual user. The Defendants' common goal was to extend each user's session on the Product by determining what might most effectively provoke them to comment, share or react. The Defendants designed software algorithms to identify which content was most likely to engage a user, provoke a response and prolonged use of the Product, maximizing the ad revenue the Defendants derived from the user's presence (the "Algorithms"). What had been a finite, chronological stream of content curated by the user themselves was broadened into a limitless flow of information selected and sorted by the Defendants.
16. The Algorithms that the Defendants designed and deployed proved enormously successful at identifying and pushing to an individual user whatever was most likely to engage them, provoke a response, and keep them online. It was content-neutral: what it promoted could be misleading, disturbing or dangerous, so long as it provoked a reaction and prolonged use of the Product. And by continuously monitoring that individual's particular use of the Product and combining it with demographics and other data, the Algorithms continuously refined their ability to show each user precisely what would keep them online.

B. Addictive features of the Product

17. In addition to designing the Algorithms to deliver the Harmful Content, the Defendants designed and implemented other features to enhance the addictive potential of the Product and its user interface (the “Addictive Features”), including:

- Features using the psychological principle of intermittent variable rewards, a method used to promote the addictiveness of an activity (e.g., slot machines) by refining the timing of bursts and gaps of stimuli which release dopamine in the user’s brain. The Defendants adopted this technique into the design of the Product by, for example, replacing a steady drip of real-time notifications of others’ reactions (comments and “likes”) on a user’s posts with intermittent floods of neurochemical reward.
- Features using the psychological principle of social reciprocity, for example to develop features to encourage users to remain on the Product while exchanging messages, rather than logging off and returning later as one might to an email inbox. Such features include notifications to indicate when someone is drafting a message to you, which encourage users to wait for the message to arrive, and notifications to indicate that a message has been read by the recipient—a feature intended to encourage recipients to respond immediately.

18. The Defendants’ Algorithms and Addictive Features were designed to, and did, maximize the amount of time users spend on the Product.

C. The Defendants’ knowledge of the risk of addiction to children

19. In developing their novel advertising product, the Defendants became aware that aspects of its design made the Product harmful to children.
20. The Algorithms' content-neutral design identified and delivered to children whatever content most effectively increased their use of the Product, including content that was harmful to children. The content included images, videos, and text messages—including advertisements and content from other users or “influencers”—which promoted high-risk behavior, such as risky challenges or extreme dieting, as well as health misinformation and content which caused or aggravated psychological insecurities, including anxiety about body image (the “Harmful Content”).
21. The Defendants were aware that displaying the Harmful Content to children—particularly repeatedly and for prolonged periods—caused and exacerbated serious mental health conditions, including eating disorders, depression, anxiety, self-harm, and suicidal ideation or attempts.
22. The Defendants knew that the Product was not reasonably safe for ordinary use by children but did not fix its defective design. Viable alternative designs—in particular, of the Algorithms and the Addictive Features—were available and known to the Defendants. These alternatives would have substantially reduced the risks and harms to children and could have been implemented at negligible cost to the Defendants.
23. The Defendants failed to warn users, including children and their parents, adequately or at all about the risks and harms which arise from ordinary and foreseeable use of the Product. These risks and harms were known to the

Defendants but not known, or fully appreciated, by the users of the Product, particularly children and their parents. In particular, the Defendants failed to warn users about specific risks associated with the Product and defects in its design, including that:

- (a) the Algorithm's engagement-based ranking system amplified negative, controversial or emotive content, and promoted the creators of such content;
- (b) the Addictive Features were known to enhance the Product's addictive potential, aggravating the risks posed by the Harmful Content;
- (c) certain functions, such as those using face-tracking and augmentation technology (image and video filters), were known to cause and exacerbate depression and anxiety, particularly among female children, by imposing unrealistic and harmful standards of physical attractiveness or beauty, and misleading representations of users' peers; and
- (d) children were particularly vulnerable to the hazards posed by the Harmful Content and were known to be more likely to suffer harm as a result of exposure to it.

(collectively, the "Omissions")

24. While failing to warn users of the known risks of using the Product, the Defendants represented to the public that using the Product was safe, that it promoted healthy and appropriate content for young users, and that long-term, frequent, prolonged use of it was harmless (collectively, the "Representations").
25. The Defendants derived financial benefit from the continued use of the Algorithms and the Addictive Features —and the continued delivery of the Harmful Content

to children—because it substantially prolonged users' time on the Product and proportionately increased the Defendants' ad revenue.

26. The Defendants receive substantial ad revenue from their promotion of content to children in Canada. Instagram is used by approximately 655,000 children in Canada and 4.1 million young adults; Facebook, by 1.2 million children and 5.2 million young adults.²
27. The Harmful Content has been promoted to children in Canada by the Defendants' Algorithms since at least as early as April 9, 2012, and continuing to the present (the "Class Period").

D. The Defendants Targeted a Vulnerable and Identifiable Class of Users

28. Among the Defendants' users are millions of children, including in British Columbia and across Canada. As children's brains are not yet fully developed in regions related to risk evaluation, emotional regulation, and impulse control, they are more likely to suffer harm as a result of viewing or engaging with the Harmful Content.
29. The Defendants knew or ought to have known about the increased vulnerability of children to the known risks of using the Product but did not design adequate safeguards to either make the Product reasonably safe for children or prevent access to it by young children for whom it was not, or could not be made, reasonably safe. This included failing to develop, implement or enforce adequate

² As of June 2021 and June 2022, respectively. "Young adults" refers to users 18-24 years old.

age-verification protocols to prevent children 12 years and under from using the Product and being exposed to the Harmful Content.

30. The Defendants intentionally designed their Product to be as addictive as possible. The Defendants' Algorithms and Addictive Features have caused users, in particular children and teenagers, to become addicted to their Product.
31. Addictive use of social media by minors is psychologically and neurologically analogous to addiction to internet gaming disorder. Gaming addiction is a recognized in the American Psychiatric Association's 2013 Diagnostic and Statistical Manual of Mental Disorders (DSM-5) (used by mental health professionals to diagnose mental disorders) and is a recognized mental health disorder by the World Health Organization and International Classification of Diseases. The diagnostic symptoms of social media addiction among minors are the same as the symptoms of addictive gaming promulgated in DSM-5 and include:
 - a) Preoccupation with social media and withdrawal symptoms (sadness, anxiety, irritability) when device is taken away or use is not possible (sadness, anxiety, irritability).
 - b) Tolerance, the need to spend more time using social media to satisfy the urge.
 - c) Inability to reduce social media usages, unsuccessful attempts to quit gaming social media.
 - d) Giving up other activities, loss of interest in previously enjoyed activities due to social media usage.
 - e) Continuing to use social media despite problems.

- f) Deceiving family members or others about the amount of time spent on social media.
- g) The use of social media to relieve negative moods, such as guilt or hopelessness.; and
- h) Jeopardizing school or work performance or relationships due to social media usage.

E. Whistleblower document leaks and Defendant's knowledge of harm

- 32. In mid-late 2021, a former Facebook employee disclosed several internal Facebook documents and communications to the media.
- 33. These documents shed light on the extent of the Defendants' knowledge of the risks posed to users by their Product, and in particular, by the Algorithms that promote the Harmful Content and the Addictive Features.
- 34. The documents revealed the following: that during and in advance of the proposed Class Period:
 - a) The Defendants' researchers have been studying for years how its photo-sharing app affects millions of young users. Repeatedly, Facebook found that Instagram is harmful for a sizable percentage of them, most notably teenage girls, more so than other social media platforms;
 - b) For years Facebook has been laying plans to attract preteens and other young users, viewing these children as "a valuable but untapped audience";
 - c) Facebook researchers have found that 1 in 8 of the app's users report engaging in compulsive use of social media that affects their sleep, work,

- parenting or relationships, and the problems were perceived by users to be worse on Facebook than any other major social media platform;
- d) Facebook is aware of a study that found that 13.5% of U.K. teen girls in one survey say their suicidal thoughts became more frequent after starting on Instagram;
 - e) Facebook is aware of a study that found that 17% of teen girls say their eating disorders got worse after using Instagram;
 - f) Facebook's researchers found that about 32% of teen girls said that when they felt bad about their bodies, Instagram made them feel worse;
 - g) Facebook's research indicates that "Teens blame Instagram for increases in the rate of anxiety and depression ... This reaction was unprompted and consistent across all groups";
 - h) Facebook research indicates that "Users experience of downward spiral is exacerbated by our platform", that aspects of Instagram "exacerbate each other to create a perfect storm", and that "Mental health outcomes related to this can be severe", including in relation to eating disorders, body dysmorphia, body dissatisfaction, depression and loneliness;
 - i) Instagram's research indicates that Instagram makes body image issues worse for 1 in 3 teen girls;
 - j) Instagram's research indicates that more than one third (37%) of teen girls reported that they feel worse about their bodies or appearances after seeing Instagram posts;

- k) Instagram's research suggests that by age 30, the role of Instagram in body appearance comparison and related concerns diminish; because of this, Instagram believed it should focus its efforts on teens and younger adults;
 - l) 66% of teen girls and 46% of teen boys have experienced negative social comparison on Instagram;
 - m) 13.5% of teen girl Instagram users say the platform makes thoughts of suicide and self-injury worse; and
 - n) Instagram users are twice as likely to develop an eating disorder as those who don't use social media.
35. The Defendants knew of these and other specific harms associated with the use of the Product as they evaluated its development and design—including the Addictive Features and the Algorithms which identified and delivered the Harmful Content—and represented to the public that the Product was reasonably safe for children to use.
36. The Defendants chose to maximize their profits and growth rather than implement changes to the Algorithms or the Addictive Features so as to reduce or eliminate the Harmful Content.

F. Advertising and marketing to children under the age of 13

37. The Defendants were aware that children under the age of 13 were accessing the Product but did not design adequate safeguards to prevent access to it by young children. The Defendants intentionally failed to develop, implement and enforce adequate age-verification protocols to prevent children under the age of

13 from using the Product. The Defendants knowingly took these steps in order to obtain revenue from displaying advertising to children under the age of 13, in breach of sections 215, 248, and 249 of the C.p.a.

G. The faults committed by the Defendants

38. The Defendants committed several faults in the design, manufacture, and operation of the Product, under the C.c.Q., the C.p.a. as well as under the Charter.
39. Consequently, the Defendants are liable for the injuries arising from the said faults.
40. In particular, the Defendants have designed, manufactured, and operated a Product that is dangerous and harmful to the health of users, since the Product was designed to create addiction in its users.
41. The Defendants, as the Manufacturers of the Product, knew and/or were presumed to know the risks and dangers associated with the use of the Product, including the risk of addiction and other mental injury.
42. The Defendants failed and/or neglected to disclose to users the risks and dangers associated with the use of the Product.
43. As a result of the Defendants' failure to warn users of the risks and dangers associated with use of the Product, users did not know and/or were not in a position to know the risks and dangers associated with their use of the Product;
44. By failing to disclose or warn users of the risks and dangers associated with the use of the Product, the defendants committed a prohibited practice within the meaning of section 215 of the C.p.a.

45. The defendants knowingly and willingly designed, manufactured, and operated a dangerous product that was designed to create addiction in users;
46. The Defendants intentionally and unlawfully infringed the rights to life, security and integrity of users under the Charter;
47. The defendants advertised for commercial purposes to persons under 13 years of age, which constitutes a prohibited practice under sections 215, 248, and 249 of the C.p.a.;
48. Senior executives and employees of each of the Defendants engaged in communications and attended meetings with senior executives and employees of each of the other Defendants at times and places—some of which are unknown to the Applicant—as a result of which the Defendants unlawfully conspired or agreed to adopt product designs and implement strategies to increase users' time on the Product.
49. The faults committed by the Defendants are therefore joint and several.

PART IV: FACTS GIVING RISE TO AN INDIVIDUAL CLAIM BY PLAINTIFF ALEXIA ROBERT

50. The Plaintiff, Alexia Robert, is currently 16 years old. She acquired an Instagram account in or about 2018, when she was 11 years old. As a result of viewing the Harmful Content, the Plaintiff has developed orthorexia and anorexia nervosa, requiring two hospitalizations.

PART V: FACTS GIVING RISE TO INDIVIDUAL ACTION BY EACH MEMBER OF THE GROUP

51. The cause of action and the legal basis of the recourse of each of the Class Members against the Defendants are the same as those of the Applicant.
52. The faults committed by the Defendants with regard to the Class Members are the same as those committed with regard to the Applicant, as detailed above.
53. More particularly, each of the Class Members, at the time that he or she acquired a Facebook and/or Instagram account, was not informed by the Defendants of the risks and dangers associated with the use of the Product, of which the Defendants were aware or were presumed to be aware, including – in particular – the risk of addiction.
54. Each of the Class Members did not know and/or was not in a position to know the risks and dangers associated with the use of the Product, since the Defendants neglected to provide all the necessary warnings in order to adequately protect the Class Members against the risks and dangers of said Product.
55. Each of the Class Members has suffered the same or similar injuries as the Applicant and are therefore entitled to damages to compensate for the injuries resulting from the faults committed by the Defendants.
56. Each of the Class Members is also entitled to claim that the Defendants be jointly and severally ordered to pay punitive and exemplary damages under both the Charter and the C.p.a.
57. Further, in light of the Defendants' failure to develop, implement or enforce adequate age-verification protocols to prevent children 12 years and under from using the Product and being exposed to the Harmful Content, the Defendants breached ss. 248 and 249 of the Quebec Consumer Protection Act which prohibit

commercial advertising directed at persons under thirteen years of age, and the Applicant and Class Members claim damages, including punitive damages, pursuant to s. 272 of the Quebec Consumer Protection Act.

58. The Defendants, in order to maximize the number of users of the Product, and thus maximize their profits, knowingly and intentionally designed, manufactured, and operated a dangerous product that was designed to be addictive for each of the Class Members.
59. By doing so, the Defendants unlawfully and intentionally infringed the rights to life, safety, and bodily integrity of the Class Members.
60. Thus, the Defendants are jointly and severally liable for the injuries suffered by all the Class Members and are obliged to compensate for said injuries.

PART VI: APPLICABLE LAW

61. The following sections of the C.p.a. are applicable in the present matter:

53. A consumer who has entered into a contract with a merchant is entitled to exercise directly against the merchant or the manufacturer a recourse based on a latent defect in the goods forming the object of the contract, unless the consumer could have discovered the defect by an ordinary examination.

The same rule applies where there is a lack of instructions necessary for the protection of the user against a risk or danger of which he would otherwise be unaware.

The merchant or the manufacturer shall not plead that he was unaware of the defect or lack of instructions.

The rights of action against the manufacturer may be exercised by any consumer who is a subsequent purchaser of the goods.

215. Any practice contemplated in sections 219 to 251.2 or, in case of the sale, lease or construction of an immovable, in sections 219 to 222, 224 to 230, 232, 235, 236 and 238 to 243 constitutes a prohibited practice for the purposes of this title.

216. For the purposes of this title, representation includes an affirmation, a behaviour or an omission.

219. No merchant, manufacturer or advertiser may, by any means whatever, make false or misleading representations to a consumer.

228. No merchant, manufacturer or advertiser may fail to mention an important fact in any representation made to a consumer.

248. Subject to what is provided in the regulations, no person may make use of commercial advertising directed at persons under thirteen years of age.

249. To determine whether or not an advertisement is directed at persons under thirteen years of age, account must be taken of the context of its presentation, and in particular of

- (a) the nature and intended purpose of the goods advertised;**
- (b) the manner of presenting such advertisement;**
- (c) the time and place it is shown.**

The fact that such advertisement may be contained in printed matter intended for persons thirteen years of age and over or intended both for persons under thirteen years of age and for persons thirteen years of age and over, or that it may be broadcast during air time intended for persons thirteen years of age and over or intended both for persons under thirteen years of age and for persons thirteen years of age and over does not create a presumption that it is not directed at persons under thirteen years of age.

252. For the purposes of sections 231, 246, 247, 247.1, 248 and 250, “to advertise” or “to make use of advertising” means to prepare, utilize, distribute, publish or broadcast an advertisement, or to cause it to be distributed, published or broadcast.

272. If the merchant or the manufacturer fails to fulfil an obligation imposed on him by this Act, by the regulations or by a voluntary undertaking made under section 314 or whose application has been extended by an order under section 315.1, the consumer may demand, as the case may be, subject to the other recourses provided by this Act,

- (a) the specific performance of the obligation;**
- (b) the authorization to execute it at the merchant's or manufacturer's expense;**
- (c) that his obligations be reduced;**
- (d) that the contract be rescinded;**
- (e) that the contract be set aside; or**
- (f) that the contract be annulled,**

without prejudice to his claim in damages, in all cases. He may also claim punitive damages.

62. The following sections of the C.c.Q. are applicable in the present matter:

1457. Every person has a duty to abide by the rules of conduct incumbent on him, according to the circumstances, usage or law, so as not to cause injury to another. Where he is endowed with reason and fails in this duty, he is liable for any injury he causes to another by such fault and is bound to make reparation for the injury, whether it be bodily, moral or material in nature.

He is also bound, in certain cases, to make reparation for injury caused to another by the act, omission or fault of another person or by the act of things in his custody.

1458. Every person has a duty to honour his contractual undertakings. Where he fails in this duty, he is liable for any bodily, moral or material injury he causes to the other contracting party and is bound to make reparation for the injury; neither he nor the other party may in such a case avoid the rules governing contractual liability by opting for rules that would be more favourable to them.

1468. The manufacturer of a movable thing is bound to make reparation for injury caused to a third person by reason of a safety defect in the thing, even if it is incorporated with or placed in an immovable for the service or operation of the immovable.

The same rule applies to a person who distributes the thing under his name or as his own and to any supplier of the thing, whether a wholesaler or a retailer and whether or not he imported the thing.

1469. A thing has a safety defect where, having regard to all the circumstances, it does not afford the safety which a person is normally entitled to expect, particularly by reason of a defect in design or manufacture, poor preservation or presentation, or the lack of sufficient indications as to the risks and dangers it involves or as to the means to avoid them.

63. The following sections of the Charter apply:

1. Every human being has a right to life, and to personal security, inviolability and freedom.

He also possesses juridical personality.

49. Any unlawful interference with any right or freedom recognized by this Charter entitles the victim to obtain the cessation of such interference and compensation for the moral or material prejudice resulting therefrom. In case of unlawful and intentional interference, the tribunal may, in addition, condemn the person guilty of it to punitive damages.

PART VII: CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF

A. Common questions of fact and law (art. 575 (1) C.c.p.)

64. The claims of the Class Members raise identical, similar or related questions of fact or law, namely:

- a) Did the Defendants design, manufacture, and operate a product that is dangerous and harmful to the health of the Members?
- b) Did the Defendants know or purport to know of the risks and dangers associated with the use of the Product by the Members?

- c) Did the Defendants fail and/or neglect to disclose to the Members the risks and dangers associated with the use of the Product?
- d) Did the Members know or were they in a position to know the risks and dangers associated with the use of the Product?
- e) Did the Defendants provide the Members with all the necessary warnings and instructions in order to protect them against the risks and dangers associated with the use of the Product?
- f) By failing to mention the risks and dangers associated with the use of the Product by the Members, did the Defendants commit a prohibited practice within the meaning of section 215 of the C.p.a.?
- g) Did the Defendants knowingly design, manufacture, and operate a dangerous product that was designed to create addiction in users?
- h) Did the Defendants, through their marketing and advertising strategy, attempt to trivialize and/or deny the risks and dangers associated with the use of the Product?
- i) Did the defendants advertise for commercial purposes to persons under the age of 13?
- j) If so, did the defendants thereby commit a prohibited practice within the meaning of sections 215, 248, and 249 of the C.p.a.?
- k) Did the Defendants infringe the rights to life, security and integrity of the Members protected by the Charter?
- l) If so, is this infringement unlawful and intentional?

m) Is the liability of the defendants towards the Applicant and the Members joint and several?

B. The facts alleged appear to justify the conclusions sought (art. 676 (2) C.c.p.)

65. The Applicant alleges that the facts appear to justify the conclusions sought and refers to paragraphs 1 to 60 of the present application.

C. The composition of the Class (art. 575 (3) C.c.p.)

66. The composition of the class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings, for the following reasons:

- a) Class Members are numerous and are scattered across Québec estimated to be in the thousands;
- b) The Applicant is unaware of how many persons throughout Québec had purchased and/or used the Product;
- c) The names and addresses of the class members are not known to the Applicant;
- d) Given the costs and risks inherent in an action before the courts, many Class Members would hesitate to institute an individual action against the Defendants. Even if the Class Members themselves could afford such individual litigation, the Court system could not as it would be overloaded;
- e) Further, individual litigation of the factual and legal issues raised by the conduct of the Defendants would increase delay and expense to all parties and to the Court system;

- f) A multitude of actions risks having contradictory judgments on questions of fact and law that are similar or related to all Class Members;
- g) These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class Member to obtain mandates and to join them in one action; and
- h) In these circumstances, a class action is the only appropriate procedure for all of the Class Members to effectively pursue their respective rights and have access to justice;

D. The Applicant is in a position to adequately represent the Class members (art. 575 (4) C.c.p.)

67. The Applicant requests that they be appointed the status of representative plaintiff for the following main reasons:
- a) They are a member of the Class and have a personal interest in seeking the conclusions that they propose herein;
 - b) They are competent, in that they have the potential to be the mandatary of the action if it had proceeded under article 91 of the C.c.p.;
 - c) Their interests are not antagonistic to those of other Class Members;
68. Additionally, the Applicant respectfully adds that:
- a) They contacted and mandated their attorneys to file the present application for the sole purpose of having their rights, as well as the rights of other Class Members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of the Defendants' failures in their legal obligations and so that the Defendants can be held accountable;

- b) They also want to make sure that the public is made aware of the true risks associated with the Defendants' Product;
- c) They are aware of several other Class Members in the same situation as them;
- d) They have the time, energy, will and determination to assume all the responsibilities incumbent upon them in order to diligently carry out the action;
- e) They cooperate and will continue to fully cooperate with their attorneys, who have experience in consumer protection-related class actions;
- f) They understand the nature of the action;

PART VIII: NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

69. The nature of the class action that the Applicant intends to bring on behalf of the Members is an action for nullity of contract as well as damages against the Defendants to compensate for the injuries resulting from the faults committed by the latter in the context of the design, manufacture, and operation of the Product.
70. The conclusions that the Applicant seeks are the following:

GRANT the plaintiff's application to institute proceedings;

ORDER the Defendants jointly and severally to pay the plaintiff damages to be assessed by the Court with interest from the date of service of this application as well as the additional indemnity provided for in Article 1619 C.c.Q.

ORDER the Defendants jointly and severally to pay the plaintiffs punitive and exemplary damages to be assessed by the Court;

DECLARE that the defendants have been unjustly enriched by the amount of advertising revenue earned as a result of the Class Members' use of Facebook and Instagram and **ORDER** the indemnification of the Applicant for all such advertising revenue;

CONDEMN the Defendants jointly and severally to pay the Applicant punitive and exemplary damages to be assessed by the Court;

ORDER the Defendants jointly and severally to pay to each of the Members damages and interest to be assessed by the Court, with interest from the date of service of the present application, as well as the additional indemnity provided for in Article 1619 C.C.Q;

CONDEMN the Defendants jointly and severally to pay to each of the Members punitive and exemplary damages to be assessed by the Court;

ORDER that the aforementioned damages be subject to collective compensation, in accordance with the provisions of Articles 595 to 598 of the C.c.p., except for the sums arising from compensation for addiction or other psychological injury, which shall be subject to individual compensation;

CONDEMN the Defendants to any other appropriate remedy deemed fair and reasonable.

PART IX: JURISDICTION

71. The Applicant proposes that the class action be brought before the Superior Court sitting in the judicial district of Montréal for the reasons set out below;
72. The Applicant is domiciled in the judicial district of Montreal and its surroundings;
73. Several Members are domiciled in the judicial district of Montreal and its surroundings;
74. The undersigned lawyers, whose services have been retained by the Applicant, practice and have a principal place of business in the judicial district of Montreal;
75. The present application for authorization to institute a class action is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present application;

AUTHORIZE the bringing of a class action in the form of an Application to Institute Proceedings in damages;

APPOINT the Applicant the status of representative Applicant of the persons included in the class herein described as:

All natural persons and/or their legal representatives and/or their guardians, domiciled or having been domiciled in Quebec, who were under the age of majority when they acquired and used a Facebook and/or Instagram account.

IDENTIFY the principal questions of fact and law to be treated collectively as the following:

- a) Did the Defendants design, manufacture, and operate a product that is dangerous and harmful to the health of the Members?
- b) Did the Defendants know or purport to know of the risks and dangers associated with the use of the Product by the Members?

- c) Did the Defendants fail and/or neglect to disclose to the Members the risks and dangers associated with the use of the Product?
- d) Did the Members know or were they in a position to know the risks and dangers associated with the use of the Product?
- e) Did the Defendants provide the Members with all the necessary warnings and instructions in order to protect them against the risks and dangers associated with the use of the Product?
- f) By failing to mention the risks and dangers associated with the use of the Product by the Members, did the Defendants commit a prohibited practice within the meaning of section 215 of the C.p.a.?
- g) Did the Defendants knowingly and voluntarily design, manufacture, and operate a dangerous product that was designed to create addiction in users?
- h) Did the Defendants, through their marketing and advertising strategy, attempt to trivialize and/or deny the risks and dangers associated with the use of the Product?
- i) Did the defendants advertise for commercial purposes to persons under the age of 13?
- j) If so, did the defendants thereby commit a prohibited practice within the meaning of sections 215, 248, and 249 of the C.p.a.?
- k) Did the Defendants infringe the rights to life, security and integrity of the Members protected by the Charter?
- l) If so, is this infringement unlawful and intentional?

m) Is the liability of the defendants towards the Applicant and the Members joint and several?

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

GRANT the plaintiff's application to institute proceedings;

ORDER the Defendants jointly and severally to pay the plaintiff damages to be assessed by the Court with interest from the date of service of this application as well as the additional indemnity provided for in Article 1619 C.c.Q.

ORDER the Defendants jointly and severally to pay the plaintiffs punitive and exemplary damages to be assessed by the Court;

DECLARE that the defendants have been unjustly enriched by the amount of advertising revenue earned as a result of the Class Members' use of Facebook and Instagram and **ORDER** the indemnification of the Applicant for all such advertising revenue;

CONDEMN the Defendants jointly and severally to pay the Applicant punitive and exemplary damages to be assessed by the Court;

ORDER the Defendants jointly and severally to pay to each of the Members damages and interest to be assessed by the Court, with interest from the date of service of the present application, as well as the additional indemnity provided for in Article 1619 C.C.Q.;

CONDEMN the Defendants jointly and severally to pay to each of the Members punitive and exemplary damages to be assessed by the Court;

ORDER that the aforementioned damages be subject to collective compensation, in accordance with the provisions of Articles 595 to 598 of the C.c.p., except for the sums arising from compensation for addiction or other psychological injury, which shall be subject to individual compensation;

CONDEMN the Defendants to any other appropriate remedy deemed fair and reasonable.

DECLARE that all class members that have not requested their exclusion from the class in the prescribed delay to be bound by any judgment to be rendered on the class action to be instituted;

FIX the delay of exclusion at thirty (30) days from the date of the publication of the notice to the class members, date upon which the members of the class that have not exercised their means of exclusion will be bound by any judgment to be rendered herein;

ORDER the publication of a notice to the class members in accordance with Article 579 of the C.c.p., within sixty (60) days from the judgement to be rendered herein pursuant to a further Order of the Court, and **ORDER** Defendants to pay for said publication costs;

RENDER any other order that this Honourable Court shall determine;

THE WHOLE with costs, including the costs of all publications of notices.

Montréal, January 24, 2023

Frédéric Quintal

*M^e Frédéric
Quintal,
pour:*

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Frédéric Quintal

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pour:*

SIMKIN LÉGAL

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4 rue Notre-Dame Est, #304
Montréal (Québec) H2Y 1B8

Phone: 1-438-738-3950

Fax: 1-438-788-9278

Attorneys for the Applicant

SUMMONS
(Art. 145 and following C.C.P.)

Filing of a judicial application

Take notice that the Applicant has filed this Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Applicant in the office of the Superior Court in the judicial district of Montréal.

Defendants' answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montréal situated at 1 Rue Notre-Dame Est, Montréal, Québec, H2Y 1R6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the case required by the Code, cooperate with the Applicant in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Change of judicial district

You may ask the court to refer the originating Application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the Applicant.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main

residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

Transfer of application to Small Claims Division

If you qualify to act as a Applicant under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the Applicant's legal costs will not exceed those prescribed for the recovery of small claims.

Calling to a case management conference

Within 20 days after the case protocol mentioned above is files, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

Exhibits supporting the application

- Exhibit P-1:** The Wall Street Journal – Teen Girls Body Image and Social Comparison on Instagram – An Exploratory Study in the U.S.
- Exhibit P-2:** The Wall Street Journal – The Facebook Files (Documents from Whistleblower Frances Haugen)
- Exhibit P-3:** The Wall Street Journal – Transcript of Frances Haugen Interview

The exhibits in support of the application are available upon request.

Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

**NOTICE OF PRESENTATION
(Articles 146 and 574 CCP)**

TO:

META PLATFORMS INC.,
1 Hacker Way,
Menlo Park, CA
USA 94025

and

FACEBOOK CANADA LTD.,
661 University Avenue, Suite 1201, 12th floor,
Toronto, Ontario, M5G 1M1

and

INSTAGRAM INC.,
1 Hacker Way,
Menlo Park, CA
USA 94025

and

INSTAGRAM LLC
c/o Corporation Service Company,
251 Little Falls Drive, Wilmington, DE
USA 19808

Defendants

TAKE NOTICE that Applicant's *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative* will be presented before the Superior Court at 1 Rue Notre-Dame E, Montréal, Québec, H2Y 1B6, on the date set by the coordinator of the Class Action chamber.

GOVERN YOURSELVES ACCORDINGLY.

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No: 500-06-

SUPERIOR COURT
(Class Action)

**ALEXIA ROBERT, by her Litigation
Guardian KELLY CUNNINGTON;**

Applicant

v.

META PLATFORMS INC.;

and

FACEBOOK CANADA LTD.;

and

INSTAGRAM INC.;

and

INSTAGRAM LLC.

Defendants

LIST OF EXHIBITS

- Exhibit P-1:** The Wall Street Journal – Teen Girls Body Image and Social Comparison on Instagram – An Exploratory Study in the U.S.
- Exhibit P-2:** The Wall Street Journal – The Facebook Files (Documents from Whistleblower Frances Haugen)
- Exhibit P-3:** The Wall Street Journal – Transcript of Frances Haugen Interview

Montréal, January 24, 2023

Otab Leclerc *M^e Frédéric Quintal, pour :*

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Fax: 1- 604-682-0587

Otab Leclerc

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Phone: 1-514-582-9236
Fax: 1-514-673-9058

Attorneys for the Applicant

500-06-001217-237

NO:

**SUPERIOR COURT
DISTRICT OF MONTREAL
(Class Action)**

**ALEXIA ROBERT, by her Litigation Guardian
KELLY CUNNINGTON;**

Applicant

v.

META PLATFORMS INC.;

and

FACEBOOK CANADA LTD.;

and

INSTAGRAM INC.;

and

INSTAGRAM LLC.

Defendants

**APPLICATION FOR AUTHORIZATION TO
INSTITUTE A CLASS ACTION AND TO OBTAIN
THE STATUS OF REPRESENTATIVE,
LIST OF EXHIBITS P-1 TO P-3**

ORIGINAL

Nature : Class Action

Mon dossier :

0060-003

AS0NB7



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LEGAL**

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