

C A N A D A

(Class Action Division)

PROVINCE OF QUEBEC

SUPERIOR COURT

DISTRICT OF MONTREAL

N^o : 500-06-001140-215

BRUNO SIMARD

Plaintiff

v.

APPLE CANADA INC.

-and-

APPLE INC.

Defendants

**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.)

TO THE HONORABLE JUSTICE CHRISTIAN IMMER OF THE SUPERIOR COURT OF QUEBEC, DISTRICT OF MONTREAL, DESIGNATED TO PRESIDE OVER THE PRESENT CLASS ACTION, THE PLAINTIFF RESPECTFULLY SUBMITS THE FOLLOWING:

PART ONE: OVERVIEW OF THIS APPLICATION

1. On March 13 and 15, 2023, the Parties participated in two full days of private mediation presided by Me Sylvain Deslauriers.
2. The Parties continued their arms-length serious negotiations for several months thereafter before reaching the actual agreement to settle in principle.

3. On May 26, 2023, the Parties reached a settlement in principle, regarding the following Class, of which Plaintiff is a member:

Class means any physical or legal person who lives in / is domiciled in the Province of Québec and who purchased, owns, or owned, other than for resale, a Class Computer -or- any physical or legal person who lives in / is domiciled elsewhere but who purchased, other than for resale, such a Class Computer in the Province of Québec, and **Class Member** means any one thereof.

Class Computer means any of the following Apple computer models:

- MacBook (Retina, 12-inch, Early 2015)
- MacBook (Retina, 12-inch, Early 2016)
- MacBook (Retina, 12-inch, 2017)
- MacBook Air (Retina, 13-inch, 2018)
- MacBook Air (Retina, 13-inch, 2019)
- MacBook Pro (13-inch, 2016, Two Thunderbolt 3 Ports)
- MacBook Pro (13-inch, 2017, Two Thunderbolt 3 Ports)
- MacBook Pro (13-inch, 2019, Two Thunderbolt 3 Ports)
- MacBook Pro (13-inch, 2016, Four Thunderbolt 3 Ports)
- MacBook Pro (13-inch, 2017, Four Thunderbolt 3 Ports)
- MacBook Pro (15-inch, 2016)
- MacBook Pro (15-inch, 2017)
- MacBook Pro (13-inch, 2018, Four Thunderbolt 3 Ports)
- MacBook Pro (15-inch, 2018)
- MacBook Pro (13-inch, 2019, Four Thunderbolt 3 Ports)
- MacBook Pro (15-inch, 2019)

4. The settling Parties continued their negotiations thereafter, ultimately arriving at a formal Settlement Agreement signed as of August 21, 2023, the whole as appears more fully from a copy of the Settlement Agreement, communicated herewith as **Exhibit R-1**, together with its schedules and French translations (the “**Settlement Agreement**” or “**Settlement**” or “**Proposed Settlement**”).
5. On August 21, 2023, the Plaintiff sought an order authorizing the bringing of a class action for settlement purposes only, approving the notices to Class Members of the pending settlement approval hearing and opt out procedure, and appointing the Claims Administrator.

6. On August 29, 2023, this Honourable Court *inter alia* authorized the class action for settlement purposes, approved the Long Form and Short Form notices to Class Members and the relevant Notice Plan in relation thereto, and appointed RicePoint Administration Inc. (“**RicePoint**”) as Claims Administrator under the Settlement.
7. As ordered by the Court in said Judgment, RicePoint has indeed disseminated the relevant notices, the whole as more fully detailed in RicePoint’s “Notice Report” dated October 23, 2023, a copy of which is communicated herewith as **Exhibit R-2**. This Report sets out the details of the very effective notice program conducted pursuant to the August 29, 2023 Judgment.
8. Except to the extent they are modified by this Application, the definitions set out in the Settlement Agreement apply and are incorporated herein.
9. The nature of this Application requires Class Counsel to disclose in broad terms its efforts in advancing this litigation, as well as certain discussions regarding the claims, the defences and/or the settlement negotiations. Nothing in this application and associated affidavits are intended to waive, nor should it be construed as a waiver of, attorney-client, litigation or other privilege or confidentiality that may attach to the information outlined herein.
10. The Settlement provides for the payment by Defendants of a Settlement Fund in the amount of CAD \$6 million, inclusive of legal fees, expenses and applicable taxes, for the benefit of the above-defined Class. This is the amount of the total settlement value herein.

11. In this Application, the Plaintiff respectfully seeks:

- (a) on consent of the Defendants, this Honourable Court's approval of the Settlement, including its Distribution Protocol;
- (b) this Honourable Court's approval of the Notice of Court Order (Schedules C-1, C-2, C-3, and C-4 to the Settlement Agreement), in their French and English versions;
- (c) this Honourable Court's approval of Section B of the Notice Plan (Schedule D to the Settlement Agreement); and
- (d) this Honourable Court's approval of Class Counsel Fees and Disbursements detailed at Article XI of the Settlement Agreement, together with applicable taxes.

PART TWO: THE FACTS

12. In Spring 2015, Apple introduced and began selling its new MacBook Laptops equipped with a newly designed type of keyboard referred to as the "butterfly keyboard", replacing the traditional "scissor" type keyboard. Apple later introduced this butterfly type of keyboard to other Apple branded laptops, namely the MacBook Pro in 2016 and the MacBook Air in 2018.

13. The principal difference between the scissor type keyboard and the butterfly keyboard is the travel distance of the key stroke, which is how far the user must press a key

before the electrical circuit is completed and the computer registers the user's keystroke. The butterfly keyboard was designed 40% thinner than the prior scissor mechanism keyboards which allowed Apple to produce thinner and lighter laptops.

14. Plaintiff and many Class Members experienced problems with the "Butterfly Keyboard", namely keyboard keys would either stick, fail to register properly and/or register more than onetime time per keystroke.
15. Accordingly, on or about March 31, 2021, 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 C.C.P. (the "**Application for Authorization**"), before the Superior Court of Québec, District of Montreal, against Defendants Apple Canada Inc. and Apple, Inc. (hereinafter collectively "**Apple**" or "**Defendants**").
16. This class action arises out of the abovementioned alleged defects affecting the above-listed Class Computers, namely all 2015-2019 Apple MacBook laptop computers equipped with a "Butterfly Keyboard". Apple denies the claims made in the class action.
17. Apple filed and presented an application for authorization to adduce evidence and to examine the Plaintiff before authorization. The parties each filed their argument plans and authorities in relation to said contested application.
18. By Judgment dated January 28, 2022, this Honorable Court permitted the filing of Apple's Exhibit APL-1 (a request that was not contested by Plaintiff) but dismissed Apple's remaining contested requests.

19. The authorization hearing was then scheduled for June 29 and 30, 2022. The Parties prepared for said hearing, including the preparation of the required argument plans and authorities.
20. However, on June 17, 2022, the parties discussed and agreed to submit to private mediation and agreed to ask the Court to suspend the authorization hearing, which the Court permitted.
21. As mentioned above, the Parties have now reached the proposed Settlement Agreement, subject to Court approval of course.

PART THREE: TERMS OF THE SETTLEMENT AGREEMENT

22. The Settlement Agreement was executed as of August 21, 2023, subject to and contingent upon the approval of this Honourable Court.
23. The Settlement Agreement does not constitute, nor is it to be deemed, construed or interpreted as constituting, an admission or concession by the Defendants or Plaintiff regarding the truth of the allegations or liability.
24. If approved by this Honourable Court, the Settlement Agreement provides for the payment by Apple of an all-inclusive Settlement Fund in the amount of CAD \$6,000,000, resolving this class action finally and in its entirety on the terms summarized below. This amount represents the total settlement value herein. Based on the undersigned attorneys experience and review of the relevant documentation herein, we are confident that said amount, net of Court approved deductions, will fully indemnify all claimants under the settlement.

25. According to Apple records, there are 170,353 Class Computers included in the Settlement Class and the Settlement Class itself is comprised of 143,744 unique persons.
26. All Class Computers have already benefited from and/or will continue to benefit from the **Keyboard Service Program (“KSP”)**, namely the Apple program providing keyboard repair service for eligible MacBook, MacBook Air, and MacBook Pro computers for four (4) years from the date of purchase. The KSP provides four (4) years of protection and remains available for any Settlement Class Member whose Class Computer keyboard may experience **future issues** within four years of purchase.
27. In this regard, Apple records indicate that some of the Class Computers (including certain 2018 and 2019 models) were still being sold until mid-2020. The Settlement Agreement therefore provides for a Claims Period that will start running from the date the Notice of Court Order is first published on the Claims Administrator’s website and will end on June 30, 2024.
28. The KSP therefore provides for a method for Class Members to have the eligible Class Computer examined and if needed serviced, in order to address the Butterfly Keyboard issue. In addition, it provides for the option to request a refund in case a Class Member previously paid to have the keyboard repaired.
29. In this regard, as part of the negotiated Settlement, we have ensured that the Claims Period will go up until June 30, 2024, in order to coincide with the date on which the “4 years from purchase” for all Class Computers will have been surpassed. Accordingly, we have ensured that all Class Computers had and/or will have full access to the KSP for the full four 4 years from sale, in order to have repairs conducted regarding the Butterfly Keyboard issue in question and/or request a reimbursement for repair costs disbursed. This represents additional value and relief provided by the Settlement (on top of the total Settlement Fund).

30. Moreover, the Settlement Agreement covers **Topcase Replacements**, which refers to the replacement of the full keyboard module (including the battery, track pad, speakers, top case, and keyboard), and **Keycap Replacements**, which refers to the replacement of one or more keycaps on a keyboard and does not involve replacement of the full keyboard module. Either repair must have been performed by Apple or an Apple Authorized Service Provider.
31. The following Groups of Class Members are therefore entitled to compensation under the Settlement Agreement, as follows:

Group 1 – Multiple Topcase Replacements

32. Group 1 is comprised of Class Members who, within four years of purchasing a Computer, obtained two or more Topcase Replacements based on Apple's records.
33. A Group 1 Class Member, based on Apple's records, will receive a Short Form Notice by email confirming this and will receive up to CAD \$545.00 per Computer. This amount will be sent directly to the Group 1 Class Member by electronic fund transfer at the last known email address that Apple has on the person in question.
34. Accordingly, the **Group 1 Class Members do not need to file a claim form** to receive payment under the Settlement and therefore have **nothing to do** in order to receive their compensation.
35. The Settlement provides that the Group 1 Class Member can choose to (i) modify the email address for the e-transfer or (ii) receive the funds via mailed cheque. In such cases, the Group 1 Class Member will need to log into the Group 1 online

portal of the Claim Administrator's Settlement Website in order to confirm the changes.

36. Within approximately 30 days following the Filing Deadline, the Claims Administrator will distribute up to CAD \$545.00 to the Group 1 Class Members, per Computer purchased which qualify for payment.

Group 2 – One Topcase Replacement & Group 3 – Keycap Replacements

37. Group 2 is comprised of Class Members who, within four years of purchasing a Computer, obtained one Topcase Replacement, and who attest on the Claim Form that the repair did not resolve their keyboard issues.
38. Group 3 is comprised of Class Members who, within four years of purchasing a Computer, obtained one or more Keycap Replacements (but not any Topcase Replacements), and who attest on the Claim Form that the repair did not resolve their keyboard issues.
39. Group 2 or Group 3 Class Members must complete and submit a Claim Form by the Filing Deadline (i.e. the last day of the Claims Period). Based on Apple's records (records and information Apple must provide to RicePoint under the Settlement), the Claim Forms will be prepopulated as much as the information is available, with the Group 2 and Group 3 Class Members' relevant repair and Class

Computer information. Claims may be submitted online through the Settlement Website maintained by RicePoint or mailed to RicePoint.

40. Under the terms of the Settlement, eligible Group 2 Class Members will receive a payment of up to CAD \$173.00 per Computer, and eligible Group 3 Class Members will receive a payment of up to CAD \$69.00 per Computer.
41. Group 2 or Group 3 Class Members can make a claim only once per Computer, but they may make additional claims in the event they purchased multiple Computers that qualify for payment.
42. The above minimum figures emanate from Apple's records but are by no means exhaustive, since the settling parties have negotiated and anticipated that other Settlement Class Members had their repairs conducted elsewhere. The Settlement Agreement therefore permits these other Settlement Class Members to submit claims for compensation under the Settlement.
43. In addition, from now and up until the end of the Claims Period on June 30, 2024, certain Settlement Class Members may have further repairs conducted on their Class Computers in order to address the Butterfly Keyboard issue. In such a case, they will either qualify for compensation under the Settlement or be upgraded in order to be entitled to additional compensation under the Settlement, *le cas échéant*, as per the Distribution Protocol.

Payment of the Settlement Fund by Apple

44. As detailed in the Settlement Agreement, the Defendants indeed paid a first tranche of CAD \$500,000 (forming part of the Settlement Fund) to the Account in trust held by RicePoint. The transfer of the first tranche of \$500,000 was/is so that money is available to the Claims Administrator to cover and pay for any Administration Expenses incurred or to be incurred before the Effective Date.
45. Within thirty (30) days of the eventual Second Order approving the Settlement, *le cas échéant*, the Defendants shall pay the remainder of the Settlement Fund (CAD \$5,500,000) to the Account in trust.
46. The Defendants' payment of the Settlement Fund will be in full satisfaction of the Released Claims against the Releasees defined in the Settlement Agreement as follows: (subject to approval of the Court of course):

“Released Claims means any and all manner of claims, complaints, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, damages of any kind whenever incurred, declaratory relief, liabilities of any nature whatsoever, including assigned claims, claims for injunction, contribution, indemnity, interest, costs, expenses, class administration expenses (including Administration Expenses), and lawyers' fees (excluding Class Counsel Fees, which are addressed at Article 11.1 of the present Settlement Agreement), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, that the Releasers, or any of them, whether directly or indirectly, ever had, could have had, or now have relating to the Class Computers manufactured and sold by the Defendants that were the subject matter of allegations in the Class Action or that could have been the subject matter of allegations by or on behalf of the Releasers, or any of them, in the Class Action.”

47. By email sent to the Court on August 29, 2023, the Parties already confirmed (and hereby jointly reiterate) that:

“concerning the scope of the Release, the Settlement Agreement between the parties is to release Butterfly Keyboard related claims only, not other possible claims regarding the Class Computers which are unrelated to the Butterfly Keyboard issue, since this was not alleged in the Action”.

48. Accordingly, the Settlement Class Members are **not** releasing Apple concerning any further issues or defects that may be affecting their Class Computer. As mentioned in that August 29, 2023 email as well, the Parties agree that the Court may wish to confirm the above-mentioned precisions concerning the Release in its eventual Judgment, if need be.

49. None of the Defendants shall have any obligation to pay to the Plaintiff, the Class or the Claims Administrator any amount in addition to the Settlement Fund, unless otherwise expressly provided for in this Agreement.

50. The Claims Administrator shall hold the Settlement Fund in trust in the Account and maintain the Account as provided for in this Settlement Agreement.

51. In accordance with Article 5.1(f) of the Settlement Agreement, within ten (10) business days of receiving the remainder of the Settlement Fund (i.e. CAD \$5,500,000) from Defendants, the Claims Administrator shall transfer to Class Counsel payment in the amount of the Class Counsel Fees and Disbursements approved by the Court, in full satisfaction of any claims for fees, costs and/or disbursements related to the Class Action (as described more fully at Article 11.1 of the Settlement Agreement).

52. The Claims Administrator will provide invoices to the Defendants (copies of which to be sent to Class Counsel) for payment of the Administration Expenses on a monthly basis beginning after the appointment of the Claims Administrator by the Court. All Administration Expenses will be paid from the Settlement Fund, within 30 days of the

invoice provided, upon approval of the invoices by Class Counsel and the attorneys for Apple.

53. The Settlement Fund will first be used to pay for the Administration Expenses as well as Class Counsel Fees and Disbursements. Thereafter, the remainder of the Settlement Fund will be used to pay Class Members pursuant to the Distribution Protocol (**Schedule E** to the Settlement Agreement), namely to effect the payments to the three (3) Groups of the Class after the Claims Period, as more fully detailed above.

PART FOUR: APPROVAL OF THE SETTLEMENT AGREEMENT

54. The Parties respectfully seek this Honorable Court's approval of the Settlement Agreement (including its Recitals and Schedules) and the issuance of a Second Order (final judgment) compelling the Parties and the Class Members to comply with its terms and conditions for the reasons that follow, which will be further elaborated at the settlement approval hearing.
55. Pursuant to the Settlement Agreement, the Parties are collaborating and have agreed to request approval by this Honorable Court of this Settlement Agreement.
56. Article 590 of the C.C.P. requires that the Court approve a transaction settling a class action if the Court is satisfied that the terms of the settlement are fair, reasonable and in the best interests of the class.
57. The Parties believe and submit that the Settlement Agreement is fair, equitable and reasonable, and the Plaintiff submits that it is in the best interests of the Class Members and amounts to an adequate resolution of the Class Action, *inter alia*, for the reasons detailed below.
58. The Settlement Agreement is evidently subject to this Honorable Court's approval, hence the present application.

59. This Honorable Court recently summarized the governing principles for approving class action settlements as follows¹:

2. Is the Transaction fair, reasonable and equitable to all class members?

2.1 The governing principles

[27] The Court must approve the Transaction if it is fair and equitable and if it is in the members' best interest who will be bound by it.

[28] As Justice Mark Schragger of the Québec Court of Appeal wrote, the Court must « garder à l'esprit les grands principes et objectifs sous-jacents aux actions collectives, soupeser les avantages et inconvénients du règlement, de même que les concessions réciproques, les risques d'un procès et les coûts à encourir ». Justice Schragger explains that the « évaluation du caractère juste et raisonnable de la transaction s'articule souvent autour des critères suivants », namely :

- Les probabilités de succès du recours;
- L'importance et la nature de la preuve administrée;
- Les modalités, termes et conditions de la transaction;
- La recommandation des avocats et leur expérience;
- Le coût anticipé et la durée probable du litige;
- Le cas échéant, la recommandation d'une tierce personne neutre;
- La nature et le nombre d'objections à la transaction;
- La bonne foi des parties et l'absence de collusion

[29] These criteria are not cumulative; they must be appreciated and weighed as parts of a whole. The Court shares Justice Lukasz Granosik's view that « la bonne foi des parties et l'absence de collusion » is a « condition *sine qua non* de la validité de la transaction envisagée ».

[30] Several judgments relying on Justice Bisson's reasons in *Schneider* also take into consideration two further factors: the representatives' agreement and the number of exclusions.

[31] The principles of procedure warrant that settlements must be favoured. This entails that it must be accepted that compromises are to be made by all sides.

The Probability of Success

60. While the Plaintiff maintains that his action is well founded, Apple vigorously denies his claims and allegations. Indeed, this action was hotly contested by Apple and the

¹ Leclerc c. FormerXBC Inc. (Xebec Adsorption Inc.), [2023 QCCS 3952](#), par. 27-31.

negotiations (two full days of mediation and negotiations continuing over many months) were long and difficult as well.

61. It is clear that the Parties would have entered into a serious adversarial debate, *inter alia*, with respect to Apple's conduct and alleged faults and negligence, the existence of a latent defect affecting the Class Computers, the existence of damages, the consequence of the KSP, and the quantum of any damages, all of which would have an impact on the Court's appreciation of the merits of the case.
62. We estimate the length of the further litigation of the Class Action to be at least three years excluding any appeals.
63. Any trial would also have involved bringing in Class Members to testify, extensive discoveries and extensive expert evidence by both parties.
64. In this regard, and for comparison purposes, in a previous class action instituted against Apple regarding its 15 inch and 17 inch 2011 MacBook Pro models², over 12,000 documents had been communicated by Apple in the context of the discovery process. That other class action was only in relation to two (2) 2011 MacBook Pro models, whereas the list of Class Computers in the present matter involves 16 different models spanning sales from 2015 to 2020. This therefore confirms that the discovery process going forward would have been very long, extensive and costly.
65. Ultimately, it remains far from certain that Plaintiff would succeed at trial in proving his claims against the Defendants, with respect to either fault and liability or the amount of damages to which Class Members may be entitled.
66. As such, and as is the case in all class actions (even consumer cases under the C.P.A. and C.C.Q.), there was always the risk that the class action would not be successful on the merits, after many years of litigation. This risk is abated through the

² See for instance the judgment approving the settlement: *Charbonneau v. Apple Canada Inc.*, [2021 QCCS 1912](#).

Settlement Agreement, which guarantees compensation to Settlement Class Members, immediately.

67. As this Honorable Court recently mentioned in the case of *Abihisira vs. Ticketmaster Canada LP et. al.*, 500-06-001153-218, December 7, 2022, the Honorable Justice Pierre Nollet, 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.”

The recommendation of Experienced Counsel and Approval of the Plaintiff

68. Class Counsel and counsel for Apple, who have significant expertise in the area of class actions including consumer class actions, have negotiated and recommended the terms and conditions of the Settlement Agreement (with the assistance of the mediator, Me Sylvain Deslauriers, another experienced litigation and class actions litigator – further to two (2) full days of private mediation).
69. Class Counsel believes that the settlement is fair to the Class Members in light of the risks that would arise from continuing the litigation and in light of the benefits that the Settlement Agreement immediately offers the Class Members.
70. As per Article IV, section 4.2 of the Settlement Agreement, Defendants consent to the present Application and also seek to have the Settlement Agreement approved by the Court.

71. In light of the above, Class Counsel believes that the Settlement Agreement is fair and reasonable, respects the rule of proportionality and provides substantial relief and benefits to the Class Members in the circumstances and in light of the risks that would arise from continuing the litigation.
72. Plaintiff has full knowledge of the case and has provided his instructions and consent to enter into said Settlement Agreement on his behalf and on behalf of the Class Members.

The Future Expenses and the Probable Length of the Litigation

73. If the case was to proceed, there would be protracted litigation, as well as very extensive and costly discoveries and significant expert costs, as detailed above.
74. In addition, and as previously mentioned, the present action would take several years to be decided on the merits and a Judgment in favor of the Class Members could be appealed, which would cause further delays.

It is in the interests of judicial economy and proportionality that the Settlement Agreement be approved.

The Number and Nature of any Opt-Outs and/or Objectors

75. In the Pre-First Order, this Honorable Court set the deadline for filing an objection/comment at October 23, 2023. The Court also set the opt out deadline at October 23, 2023 as well.
76. The opt out deadline expired on October 23, 2023. Although the undersigned attorneys have not received any filled opt out forms herein, we did receive emails from two (2) class members asking to be excluded (which emails have been sent to Apple's counsels). In addition, the Court's docket listing (*plumitif*) lists 10 people having apparently filed an exclusion form in this file as well. In all cases, this

represents an insignificant amount of Class Members as compared to the entire Class size.

77. To date, no Class Members have submitted an objection or comment to the Settlement Agreement.

The Good Faith of the Parties and the Absence of Collusion

78. The Settlement Agreement was the product of good faith, adversarial, and arm's length negotiations over the course of many months, which included two full days of private mediation.

79. Apple contested all aspects of the Class Action, as detailed hereinabove, and the settlement negotiations lasted many months. The case, including the negotiations that led to the settlement, were all done in an adversarial manner and hard fought up until the end.

PART FIVE: APPROVAL OF CLASS COUNSEL FEES AND DISBURSEMENTS

80. The Professional Mandate & Attorneys' Fee Agreement was signed by Plaintiff and Class Counsel on March 30, 2021.

81. The Professional Mandate & Attorneys' Fee Agreement signed with the Plaintiff provides for the following calculation of Class Counsel Fees:

« a. tous les déboursés encourus;

et

b. les honoraires d'avocats au regard de la présente action collective, soit le plus élevé des deux (2) calculs suivants :

(i) un montant égal à trente-trois pourcent (33%) du montant total reçu, incluant les intérêts, peu importe la source de provenance, que ce soit par règlement, par jugement ou autre;

ou

(ii) un montant égal à la multiplication du nombre total des heures travaillées par les avocats ou autres professionnels en lien avec leur taux horaire, qui se situe entre 350\$ et 750\$ de l'heure. Ce montant sera ensuite multiplié par un multiplicateur de 3,5 pour arriver au montant total des honoraires. (Les taux horaires peuvent être révisés de temps à autre)

et

c. toutes les taxes applicables aux montants prévus aux paragraphes (a) et (b) plus haut.

Cette convention d'honoraires d'avocats inclue toutes les sommes reçues pour et au nom de l'entièreté du groupe visé par l'action collective (ou potentiellement reçues si elles sont déterminées sur une base collective) et elle s'ajoute aux frais de justice qui peuvent être attribués aux avocats. Dans le cas où un montant spécifique ne serait pas accordé collectivement, soit par règlement ou par jugement, ou que chaque membre du groupe est indemnisé ou dédommagé seulement en fonction de sa réclamation individuelle, la section (b) (i) ci-haut devra se lire pour signifier trente-trois pourcent (33%) de la valeur totale et additionnée de tous les montants réclamables en présumant que tous les membres du groupe possibles déposeraient une telle réclamation individuelle. »

82. A mandate agreement between a representative plaintiff and class counsel binds the class members. In a case in which it is fair and reasonable to class members and not contrary to the provisions of the Civil Code of Quebec, the Court should respect the mandate agreement and apply it in its entirety³.

83. According to sections 4.2 (a), 5.1 (f) and 11.1 of Settlement Agreement, and as agreed upon by the parties, Class Counsel are asking this Honorable Court to approve payment by Apple of a fixed amount representing all expenses, fees and

³ *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](#))

taxes in the amount of CAD \$1,800,000 plus GST and PST (namely 30% of the CAD \$6,000,000 Settlement Fund) plus CAD \$12,000 in disbursements (taxes included), both amounts being payable from the Settlement Fund in accordance with Article 5.1 (f) of the Settlement Agreement. The Parties have reached no other agreement on the amount of Class Counsel Fees.

84. The said Class Counsel Fees are more than reasonable under the circumstances of this case, given the significant amount of time spent and invested by Class Counsel in instituting and pursuing this matter and in negotiating and concluding the significant Settlement, and the significant risk taken by Class Counsel in taking on this matter on a purely contingency basis.
85. In addition, since the signing of the Settlement Agreement, Class Counsel have and will continue to devote significant time to answer and address Class Members' multiples queries, issues, and comments directly and they will maintain and update their firm website www.lexgroup.ca, both in French and in English, to inform Class Members of the settlement process going forward, aside from Class Counsel's ongoing communications with the Claims Administrator, counsels for Apple in this matter, and the media if required.
86. Finally, Class Counsel have not received any funding from the *Fonds d'aide aux actions collective* in the present matter.
87. As per clause 2 of the Professional Mandate & Attorneys' Fee Agreement signed by the Plaintiff, 33% of the CAD \$6,000,000 Settlement Fund would represent CAD \$1,980,000 (plus taxes and disbursements).
88. As concerning what amounts are to consider as the total settlement value when applying the percentage mentioned in the said mandate agreement, the Honorable Justice Lussier, J.S.C. confirmed that the Court should include all benefits offered to the Class Members, the administration costs, the notification/publication costs and the Class Counsel Fees and disbursements themselves: *Benabou c. StockX*, [2022 QCCS 2527](#) (par. 43 (v)):

“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”.⁴

89. Indeed, this is evident when dealing with an all-inclusive settlement fund as in the present matter, since the parties herein have agreed on the total **non-reversionary** amount to be disbursed by Apple, namely the Settlement Fund of CAD \$6,000,000. Accordingly, the agreed upon Class Counsel Fees being submitted for approval (i.e. 30% as opposed to 33% of said Settlement Fund) represents a negotiated reduction and compromise as compared to what the Plaintiff agreed to as being reasonable in the Professional Mandate & Attorneys’ Fee Agreement.

90. The requested amount of 30% is within the range of reasonableness, as recently confirmed by the Court of Appeal in *A.B. c. Clercs de Saint-Viateur du Canada*, [2023 QCCA 527](#), par. 58.

91. Indeed, Quebec class action case law generally applies either a percentage ranging from 15% to 33%⁵, or a multiplier varying between 2-3 and up to 6.15 (Although in the recent *A.B.* case, the Court of Appeal seems to suggest that Courts should move away from the systematic use of multipliers). In this regard, we refer to the case of *Marcil c. Commission scolaire de la Jonquière*, [2018 QCCS 3836](#), in which the Court

4. Also see for example the following cases which confirm the same reasoning: *Zuckerman c. Target Corporation Inc.*, [2018 QCCS 2276](#) at par. 32 (iii) and footnote 16 (the Honorable Justice Hamilton, J.S.C. as he then was) and *Rabin c. HP Canada Co.*, [2019 QCCS 1511](#) at par 26 and footnote 6 (the Honorable Justice Duprat J.C.S).

5 *A.B. c. Clercs de Saint-Viateur du Canada*, [2023 QCCA 527](#), par. 58

catalogued and enumerated many cases wherein multipliers of up to 6.15 were ruled to be acceptable⁶.

92. As of the date of this Application (October 25, 2023), the straight docketed time of Class Counsel in this matter, is the following, for a total of \$320,202.50 (plus taxes) in fees, plus \$13,380.20 in disbursements (taxes included):

Lawyer	Total Time Spent in Hours	Hourly Rate
David Assor	346.80 h	\$750
Joanie Lévesque	105.70 h	\$450
Sarah Rasemont	12.00 h	\$350
Thu-Dieu Pham-Luu	2.50 h	\$250
Laurine Gibeaux	30.85 h	\$250
Total hours:	497.85 h	
Total Disbursements:	\$13,380.20	

93. Based on past experience and involvement in the post-settlement administration of other class action settlements, including another Apple class action, the work involved for Class Counsel's ongoing future obligations to the settlement process beyond the

6 In *Marcil c. Commission scolaire de la Jonquière*, [2018 QCCS 3836](#), par. 125 at footnote 22, the Court confirms the following :

« 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**). »

Also see *Pellemans c. Lacroix*, [2011 QCCS 1345](#), where the Court approved a **4.5 multiplier** at par. 121-123, also mentioning the following at footnote 39 : « **Le facteur multiplicateur, se situant généralement entre 1,5 et 5** est calculé sur le total des heures travaillées par l'avocat au dossier multipliées par son taux horaire. »

final approval hearing will continue⁷. In particular, Class Counsel estimates that such work represents in this particular case an approximate amount of \$45,000 to \$65,000.

94. Accordingly, the requested 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 significant total settlement value herein.

Time to be Spent by Class Counsel

95. As mentioned above, based on past experience and involvement in the post-settlement administration of other class action settlements, it is likely that Class Counsel's ongoing future obligations to the settlement process will involve work beyond the final approval hearing, especially concerning the claims process as detailed in the Settlement Agreement and toward the request for a final administration report and closing judgment (and the distribution of any possible balance remaining).

96. This extra future time also includes being available to all Settlement Class Members over the next several years as Class Members may have questions or issues to be resolved regarding their Class Computer, even after the claims process has been completed⁸.

97. In the present Class Action, Class Members have been particularly pro-active in their efforts to be informed of the ongoing proceedings and enquired a lot about how and when the case would be settled or if a final Judgment has been issued.

⁷ For instance, in Charbonneau v. Apple Canada Inc. matter, further hearings were required even after the Settlement was approved (see Charbonneau c. Apple Canada inc., [2023 QCCS 329](#) and Charbonneau c. Apple Canada inc., [2023 QCCS 603](#)) and a future hearing will be required in order to complete and close the file.

⁸ id.

98. At all times during the proceedings and after the final approval hearing, Class Counsel engaged and will engage with Class Members in the language of their choice (French or English), in order to keep them informed of the proceedings.
99. No additional fees or disbursements will be requested by Class Counsel for this future work.

The Experience of the Attorneys

100. Me David Assor is a member in good standing of the Quebec Bar since 2001 and of the Law Society of Ontario since 2021. 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.
101. Me Assor is also 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.
102. 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 (immediate 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.

103. Aside from Me Assor who has handled this matter since its original filing, the other professional(s) listed above were junior attorneys or professionals who worked exclusively for Lex Group Inc. at the relevant time.
104. At all relevant times, Lex Group Inc. paid regular salaries to said junior professionals all the while continuing to prosecute this class action, and other class actions, without any guarantee of compensation.

Time Dedicated

105. Since 2021 in the present matter, Class Counsel has dedicated significant time and disbursements to the present file, as detailed above, all without any guarantee of payment.
106. At all times, this litigation was high-risk. Class Counsel conducted extensive legal research and documents review in support of this claim, and dealt with the Class Members who were interested in the case.
107. The process of finalizing the Settlement Agreement continued for many months following the achievement of a settlement in principle (which was facilitated through two days of private mediation). Further work was also undertaken in anticipation of the notice approval and the settlement approval hearing (including the preparation of the present Application).
108. Further, Class Counsel will be maintaining contact with the Class Members who will be calling and/or e-mailing Lex Group Inc. pursuant to the notification detailed in the Settlement Agreement.

The Importance of the Issue

109. Consumer protection issues are directly related to the access to justice of several thousands of persons.
110. Often, claims of this nature involve relatively small sums of money for which individuals are not ready to initiate a lawsuit. It is one of the reasons why a class action is often the only way to obtain justice against large companies or institutions such as Apple.
111. If it were not for this class action, many Class Members would not have been likely to institute individual actions to recover damages against Apple which has significant financial means at its disposal.

The Difficulties of this Case

112. Some of the difficulties of litigating this case at trial would have been for the Plaintiff to prove to the Court:
- a. that the Defendants manufactured, distributed and sold a product affected by a latent defect;
 - b. that Defendants failed to adequately repair Class Members' Computers;
 - c. that Defendants failed to reimburse repair costs adequately; and
 - d. that the Class Members had suffered compensable and moral damages as a result thereof, none of which was admitted.
113. These claims would have been the subject of extensive debate and contestation.
114. These important questions would have also required extensive testimony including possible expert evidence.

The Risk Assumed

115. As is oftentimes the case in class actions, the risk of success or failure was borne entirely by Class Counsel. In the present matter, Class Counsel took on the entire case on a contingency basis.

116. This meant that neither the Plaintiff nor any Class Members were asked to contribute any fees for the time spent on the file, nor for any of the disbursements made on their behalf by Class Counsel.

117. Indeed, the Professional Mandate & Attorneys' Fee Agreement provides the following:

« 5. Les parties conviennent que ni le Représentant ni aucun membre du groupe visé par la présente action collective n'aura à payer aucun honoraire, déboursés ou frais à l'exception de ce qui est convenu au paragraphe 2 de la présente Convention. »

118. As detailed above, Apple vigorously contested all elements of the class action proceedings.

119. 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 (both in time and money) that they have assumed.

120. The Court of Appeal has recently confirmed the following in *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).

121. As the Honorable Justice Bisson recently emphasized the importance of rewarding the risk taken by class Counsel in approving the *Herron* settlement:⁹

[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.

122. As mentioned above, in the case of *Abihira vs. Ticketmaster Canada LP et. al.*, 500-06-001153-218, December 7, 2022, the Honorable Justice Pierre Nollet mentioned the following 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

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

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.”

123. Class Counsel accepted the mandate in the present matter, solely accepting all of the risks in time and disbursements, and being ready to prosecute this matter all the way until final judgment on the merits, including any possible appeals along the way. It has worked diligently to advance this litigation to the point of settlement, without any payment for its fees or any guarantee of payment.
124. To conserve and to safeguard the important societal benefits preserved by class actions, especially in the area of consumer protection, it is important that Class Counsel receive a fair payment on their time to provide the appropriate incentive to future counsel.

The Professional Services are Unusual and Require Specific Expertise

125. There are only a small number of attorneys who take on class action matters in Quebec and Canada.
126. This type of work requires particular expertise and professionalism.
127. Often, in this type of work, communication with the public and media is also necessary (e.g. by communicating with Class Members, maintaining and updating a website, being interviewed and issuing press releases, etc.). This requires the firm to be more proactive in order to protect the interests of the Class Members.
128. In this particular case, the media had reported on its initial filing and recently reported regarding the proposed settlement. There is indeed a lot of media coverage and consumer interest relating to anything involving Apple.

The Result Obtained

129. We have already fully summarized the Settlement hereinabove.
130. As mentioned, the KSP remains in effect until the end of the Claims process on June 30, 2024, providing further relief to Settlement Class Members having purchased their Class Computer within 4 years. Those with eligible Class Computers will still be able to be serviced and repaired, and reimbursements of previously paid repair costs will still be available to the eligible Settlement Class Members.
131. In addition, Group 1 Class Members will automatically receive the significant amount of CAD \$545 without having to file a claim or complete any further steps.
132. Group 2 Class Members are entitled to CAD \$173 and Group 3 Class Members are entitled to CAD \$69, upon filing the proper and valid claim form, although based on Apple's records (as much as reasonably possible), their claim forms will be pre-populated with the required Class Computer and repair information, in order to avoid them from having to look for and provide additional documents and information.
133. Other Settlement Class Members who may have had repairs conducted elsewhere (as opposed to at Apple or an Apple Authorized Service Provider) will also be entitled to submit claims for compensation under the Settlement, considering that there are a total of 170,353 Class Computers in the Settlement Class.

134. These simple options and procedures for submitting claims or for receiving automatic compensation will ensure that Class Members with valid claims will be more inclined to file said claims and will ensure that available settlement funds can be distributed automatically and/or seamlessly, which is a very significant benefit and advantage being offered by the proposed Settlement Agreement herein.
135. The Notice Program, which was approved and ordered by the Court on August 29, 2023, and which has been implemented by RicePoint, has increased the likelihood that a great majority of the potential claimants under the Settlement have been properly notified and will be able to participate in the Settlement. The case was also mentioned by the media since that August 29, 2023 Order was issued, further increasing the visibility for Settlement Class Members.
136. Indeed, since that August 29, 2023 Order and following the dissemination of the Notices, many Class Members have contacted the undersigned attorneys and/or Ricepoint inquiring as to how to participate in the settlement.

Fees Not Contested

137. As per the Settlement Agreement, Apple has agreed that Class Counsel may request Class Counsel fees up to said amount.
138. Further, no Class Member has indicated their intention to contest the request for Class Counsel Fees despite having received the pre-approval notice and the

information being published in newspapers, on the Settlement Website and on Class Counsel's firm webpage.

139. The undersigned attorneys respectfully submit that said requested Class Counsel Fees and disbursements, are fair and reasonable under the circumstances and considering the significant and beneficial results obtained for the Class Members.
140. Furthermore, as mentioned above and in the Settlement Agreement, we submit and believe that the significant CAD \$6,000,000 Settlement Fund (even after all required deductions) is much more than sufficient in order to fully compensate all of the required Settlement Class Members (Groups 1, 2 and 3) under the Settlement's claims process.
141. The Class Counsel Fees being requested have been considered acceptable by the Courts in similar circumstances, in terms of the 30% percentage of an all-inclusive settlement fund such as the one in the present matter.

PART SIX: CONCLUSION

142. Plaintiff and Class Counsel respectfully submit that the Court should approve the Settlement Agreement reached between the Parties given that it is more than reasonable, appropriate and in the best interests of the Parties and the Class Members, and considering the complexities of the proceeding and the risk faced by the Plaintiff and by Class Counsel going forward.

143. In reaching this settlement, Class Counsel and Plaintiff engaged in lengthy hard-fought arm's length negotiations, which involved 2 full days of private mediation.
144. Plaintiff respectfully submits that the Settlement Agreement allows for a quick and easy form of relief and significant compensation for the Class Members and should be approved by this Honorable Court.
145. The requested Class Counsel Fees and Disbursements represent less than what the Professional Mandate & Attorneys' Fee Agreement signed by the Plaintiff provides, reflect the time and disbursements expended by Class Counsel, the complexities of the proceeding and the risk faced by Class Counsel from the outset of this case, and the very significant benefits offered by the Settlement. As such, we respectfully submit that the Class Counsel Fees are fair and reasonable and ought to be approved.
146. The Defendants support this Application and consent to it being granted according to its conclusions below.

POUR CES MOTIFS, PLAISE AU TRIBUNAL DE:	FOR THESE REASONS, MAY IT PLEASE THE COURT TO:
DÉCLARER qu'aux fins du présent jugement, les définitions énoncées dans l'Entente de règlement s'appliquent et sont intégrées au présent jugement;	DECLARE that for the purposes of the present judgment, the definitions in the Settlement Agreement apply and are integrated in the present judgment;
ACCUEILLIR la Demande d'approbation d'un règlement d'une action collective et des Honoraires des Avocats du Groupe;	GRANT the Application to Approve a Class Action Settlement and for Approval of Class Counsel Fees;
ORDONNER et DÉCLARER 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, est approuvé en vertu de l'article 590 C.p.c., doit être mise en œuvre selon ses dispositions, et constitue une transaction au sens de l'article 2631 du Code civil du Québec;	ORDER AND DECLARE that the Settlement Agreement (including its Recitals and its Schedules) is fair, reasonable and in the best interest of the Settlement Class Members, is hereby approved pursuant to Article 590 CCP, shall be implemented in accordance with all of its terms, and constitutes a transaction pursuant to Article 2631 of the Civil Code of Quebec;
DÉCLARER que la présente Ordonnance et l'Entente de règlement ne sont fondées sur aucune admission ou déclaration de responsabilité par aucun des Défendeurs, et que toute responsabilité ou faute est expressément niée, et qu'il n'y a eu aucune telle admission ou conclusion;	DECLARE that this Order and the Settlement Agreement are not based on any admission or finding of liability or wrongdoing by any of the Defendants or other Releasees, that such liability or wrongdoing is expressly denied, and there has been no such admission or finding;
ORDONNER que l'Entente de règlement règle entièrement les Réclamations quittancées à l'égard des Parties Quittancées, et inclus, sans s'y limiter, tous les intérêts, les taxes, les frais, les coûts, les Honoraires et Débours des Avocats du Groupe, et les Frais d'Administration;	ORDER that the Settlement Amount is in full satisfaction of the Released Claims against the Releasees, and is all-inclusive of, without limitation, interest, taxes, fees, costs, Class Counsel Fees and Disbursements, and Administration Expenses;
ORDONNER que les Honoraires et Débours des Avocats du Groupe soient payés conformément à l'article XI de l'Entente de règlement;	ORDER that the Class Counsel Fees and Disbursements be paid in accordance with Section XI of the Settlement Agreement;

<p>APPROUVER la Section B du Plan relatif aux avis (Annexe D de l'Entente de règlement);</p>	<p>APPROVE Section B of Notice Plan (Schedule D of the Settlement Agreement);</p>
<p>APPROUVER la forme, le contenu et le mode de diffusion de l'Avis d'Ordonnance de la Court (Annexes C-1, C-2, C-3, et C-4 de l'Entente de règlement), dans leurs versions française et anglaise;</p>	<p>APPROVE the form, content, and mode of dissemination of the Notice of Court Order (Annexe C-1, C-2, C-3, and C-4 to the Settlement Agreement), in their French and English versions;</p>
<p>ORDONNER aux parties et l'Administrateur des réclamations de diffuser de l'Avis d'Ordonnance de la Court (Annexes C-1, C-2, C-3, et C-4 de l'Entente de règlement), conformément au Plan relatif aux avis (Annexe D de l'Entente de règlement);</p>	<p>ORDER the parties and the Claims Administrator to disseminate the Notice of Court Order (Annexe C-1, C-2, C-3, and C-4 to the Settlement Agreement) pursuant to the Notice Plan (Schedule D of the Settlement Agreement);</p>
<p>ORDONNER à l'Administrateur des réclamations d'utiliser les renseignements identifiables concernant une personne qui lui sont fournis tout au long de la procédure de réclamation dans le seul but de faciliter la procédure d'administration des réclamations conformément à l'Entente de Règlement et à aucune autre fin;</p>	<p>ORDER that the Claims Administrator shall use the personally identifiable information provided to it throughout the claims process for the sole purpose of facilitating the claims administration process in accordance with the Settlement Agreement and for no other purpose;</p>
<p>ORDONNER ET DÉCLARER que le Jugement à intervenir constitue un Jugement obligeant la communication de renseignements personnels au sens des lois sur la protection des renseignements personnels applicables, et que le Jugement en question respecte les exigences de toutes les lois sur la protection des renseignements personnels applicables;</p>	<p>ORDER AND DECLARE that the Judgment to intervene constitutes a Judgment compelling the communication of personal information within the meaning of applicable privacy laws, and that said Judgment satisfies the requirements of all applicable privacy laws;</p>

<p>DÉGAGER les Défenderesses de toute obligation prévue par les lois et règlements applicables en matière de protection des renseignements personnels en ce qui concerne la communication de renseignements personnels et/ou privés aux Avocats du Groupe et/ou à l'Administrateur des Réclamations;</p>	<p>RELEASE the Defendants from any and all obligations pursuant to applicable privacy laws and regulations in relation to the communication of any personal and/or private information to Class Counsel and/or the Claims Administrator;</p>
<p>LE TOUT sans frais de justice.</p>	<p>THE WHOLE without legal costs.</p>

MONTREAL, October 25, 2023

(s) Lex Group Inc.

**Lex Group Inc.
Per: David Assor
Class Counsel
Attorneys for the Plaintiff and
the Class**

SOLEMN DECLARATION

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 case;
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 25th day of October, 2023



Commissioner for oaths for
the Province of Québec



NOTICE OF PRESENTATION

TO : Me Sarah Woods
Me Catherine Martin
McCarthy Tétrault 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 Christian Immer, J.S.C., on **October 31, 2023, at 9:30 AM, in Room 15.09** 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, October 25, 2023

(s) Lex Group Inc.

**Lex Group Inc.
Per: David Assor
Class Counsel
Attorneys for the Plaintiff and
the Class**

David Assor

From: David Assor
Sent: October 25, 2023 11:23 AM
To: Woods, Sarah; Martin, Catherine; 'Frikia Belogbi'; 'Ryan Mayele'; Nathalie Guilbert
Subject: NOTIFICATION - Class Action : 500-06-001140-215 - BRUNO SIMARD v. APPLE CANADA INC. and APPLE INC.
Attachments: Application to Approve Settlement.pdf; R-1_Entente de règlement avec annexes.pdf; R-1_Settlement Agreement and Schedules.pdf; R-2_Ricepoint_Notice Report.docx
Importance: High



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NATURE DU DOCUMENT NOTIFIÉ / NATURE OF DOCUMENT NOTIFIED

Numéro de Cour / Court Number	500-06-001140-215
Noms des parties / Name of the parties	BRUNO SIMARD v. APPLE CANADA INC. and APPLE INC.
Nature du document notifié / Nature of Document notified	- Application to Approve a Class Action Settlement and for Approval of Class Counsel Fees - Exhibits R-1 and R-2

N^o.: 500-06-001140-215

(Class Action Division)
SUPERIOR COURT
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

BRUNO SIMARD

Plaintiff

v.

APPLE CANADA INC.
-and-
APPLE INC.

Defendants

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

ORIGINAL

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