

ANNEX B

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
(Class Action)

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No: 500-06-001244-231

JEREMIE ABIKHZER

Applicant

v.

SNAPCOMMERCE, INC.  
(D.B.A. SUPERTRAVEL)

and

SNAPCOMMERCE HOLDINGS, INC. (D.B.A.  
SUPER)

Defendants

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**SETTLEMENT AGREEMENT, TRANSACTION AND RELEASE**  
**Art. 590 of the *Code of civil Procedure* and Art. 2631 of the *Civil Code of Québec***

**PREAMBLE**

**A. WHEREAS** Applicant is seeking to authorize the bringing of a national class action against Defendants Snapcommerce Inc., doing business as “Supertravel”, and Snapcommerce Holdings Inc., doing business as “Super” (collectively, “**Defendants**”) in proceedings before the Superior Court of Québec bearing Court file No. 500-06-001244-231 (the “**Class Action**”).

**B. WHEREAS** Defendants deny all liability with respect to the facts alleged in the Class Action and Applicant maintains that the Class Action is well founded in fact and in law.

**C. WHEREAS** Applicant and Defendants (together, the “**Parties**”) have agreed to settle the Class Action without any admission whatsoever, as between themselves only and as regarding a Québec-only class (the “**Settlement**”).

**D. WHEREAS** Defendants own and operate and the SuperTravel mobile application (the “**Mobile Application**”) and the website [www.super.com](http://www.super.com) (the “**Website**”).

**NOW, THEREFORE, THE PARTIES AGREE TO THE FOLLOWING:**

**1. PREAMBLE**

1.1 The preamble and enclosed schedules form part of this Agreement, as though recited at length;

**2. DEFINITIONS**

As used in this Agreement, the terms set forth in this section in boldface type will have the following meanings:

2.1 “**Agreement**”, “**Settlement**” or “**Settlement Agreement**” means the present settlement agreement including all schedules.

2.2 “**Class Action**” means the class proceedings brought against Defendants before the Superior Court of Québec bearing File No. 500-06-001244-231.

2.3 “**Class Counsel**” means the Applicant’s Counsel, the firm LPC Avocats.

2.4 “**Class Counsel Fees**” means the amount set out in Section 7.1 as more fully detailed hereinbelow.

2.1 “**Québec Class Member(s)**” means all consumers in Québec who made a booking with Defendants using the Mobile Application or the Website, and whose booking was unilaterally cancelled by Defendants thereafter, namely the Class Representative plus the five (5) individuals listed as signatories in Schedule A hereto annexed confidentially. This does **not** include any other individuals not listed in Schedule A nor any consumers residing in other Canadian provinces outside of Québec.

2.2 “**Class Representative**” means the Applicant Mr. Jeremie Abikhzer or any other person named in his replacement prior to the approval of this Settlement Agreement.

2.3 “**Court**” means The Honourable Christian Immer, Judge for the Superior Court of Québec, or such other Judge to whom the Class Action may hereafter be assigned.

2.4 “**Defendants Counsel**” means the law firm of Osler, Hoskin & Harcourt LLP.

**2.5 “Released Parties”** means Snapcommerce Inc. and Snapcommerce Holdings Inc., their directors, officers, shareholders, partners, representatives, employees, agents, insurers, assigns, successors, legal counsels, parent companies, related or affiliated companies, affiliates, subsidiaries, predecessors, mandataries, associates and assignees, past or present.

**2.6 “Releasing Parties”** means the Class Representative and all Québec Class Members, as well as their respective heirs, executors, representatives, agents, partners, successors and assigns.

**2.7 “Settlement Amount”** means the amount set out in Section 5.1 as more fully detailed hereinbelow.

**2.8 “Settlement Approval Hearing”** means the hearing to be held before the Court on January 23, 2024, or any other date to be scheduled by the Court, in order to seek the approval of this Agreement.

### **3. APPROVAL OF THE SETTLEMENT**

**3.1** This Agreement is conditional upon the Court’s approval.

**3.2** As soon as possible after the execution of the present Agreement, but before the Approval Settlement Hearing scheduled on January 23, 2024, the Parties shall forward a copy of the executed Agreement to the Court.

**3.3** In the event that the Court does not approve the Settlement, the Parties would be restored to their respective positions as at immediately prior to the signing of the Agreement.

**3.4** Notwithstanding the foregoing, Section 11.2 shall survive the termination of this Agreement.

### **4. IMPLICATION OF QUÉBEC CLASS MEMBERS**

**4.1 Execution of the Agreement.** Québec Class Members acknowledge that they are parties to this Agreement and agree to execute and comply with the Agreement.

**4.2 Notice.** By signing this Agreement and agreeing to all of the terms herein, Québec Class Members waive and forfeit any and all rights to receive notices in connection with the Settlement, prior to or after the Settlement Approval Hearing and upon approval of the Settlement by the Court.

**4.3 Opt-Out.** By signing this Agreement and agreeing to all of the terms herein, Québec Class Members waive and forfeit any and all rights to be excluded and to opt-out from the Class Action and acknowledge that they wish to and shall remain included in the Class and shall be bound by all proceedings, orders and judgments in the Class Action, including the settlement and release provided in Section 0 of this Agreement.

**4.4 Objection.** By signing this Agreement and agreeing to all of the terms herein, Québec Class Members waive and forfeit any and all rights to appear separately and/or to object to the fairness of this Agreement, and shall be bound by all the terms of this Agreement and by all proceedings, orders and judgments in the Class Action. For purposes of clarity, Québec Class Members waive and forfeit any and all rights that they may have under article 576 of the *Code of Civil Procedure*, CQLR, c. C-25.01.

## 5. SETTLEMENT PROCESS

**5.1 Consideration.** In consideration of the Settlement, Defendants will offer Québec Class Members with a full reimbursement on the booking value as identified in the evidence filed by Defendants in the Class Action, for a total amount of CAD \$ 95,557.19 (hereinafter the “**Settlement Amount**”). The Settlement Amount will be the only payment made by Defendants to fully settle this Class Action.

**5.2 Deadline.** Defendants will pay the Settlement Amount to Class Counsel in trust within 10 days from the date of the approval of the Settlement by the Court.

**5.3 Distribution of Funds.** Within 10 days of receipt of the Settlement Amount in their trust account, Class Counsel will distribute the funds to Québec Class Members by Interac e-transfer or cheque (net of Class Counsel Fees and disbursements provided for at Section 7.1) as follows:

Applicant (Québec Class Member #1)	\$7,404.04
Québec Class Member #2	\$369.62
Québec Class Member #3	\$1,468.69
Québec Class Member #4	\$32,224.04
Québec Class Member #5	\$11,697.59
Québec Class Member #6	\$6,933.16
Net payouts to Québec Class Members:	<b>\$60,097.14</b>

## 6. RELEASE OF CLAIMS

**6.1 Release of Québec Class Members' Claims.** As of the approval of this Settlement Agreement by the Court, each Releasing Party will be deemed to have completely released and forever discharged the Released Parties, and each of them, from and for any and all liabilities, claims, crossclaims, causes of action, rights, actions, suits, debts, damages, costs, attorneys' fees (including for the Class Counsel Fees otherwise provided herein), losses, expenses, obligations, or demands, of any kind whatsoever, whether known or unknown, existing or potential, or suspected or unsuspected, whether raised by claim, counterclaim, setoff, or otherwise, including any known or unknown claims, which they have or may claim now or in the future to have, relating directly or indirectly from the allegations of the Class Action ("**Released Claims**"), including but not limited to the facts, transactions, occurrences, events, acts, omissions, or failures to act that were alleged in the Class Action or in any pleading and the disclosures and/or notices that Defendants made or failed to make to the Class Representative or the other Québec Class Members relating directly or indirectly from the allegations of the Class Action.

**6.2 Future Suits.** Upon approval of this Settlement Agreement by the Court, the Class Representative and other Québec Class Members shall renounce to any right to prosecute any claim they have released in the preceding paragraph in any proceeding against any of the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement and shall not seek compensation from any

party that could claim contribution from the released parties. It is agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this Section, instituted by a Québec Class Member.

**6.3 Consumers residing in other Canadian provinces.** Class Counsel undertakes not to pursue any claim, right or recourse relating directly or indirectly to the same allegations and claims set out in the Class Action for any other potential class members residing in other Canadian provinces outside of Québec, nor to contribute, directly or indirectly, to such claim on their behalf, either in Québec or elsewhere.

## **7. CLASS COUNSEL'S FEES, LITIGATION EXPENSES AND REIMBURSEMENTS**

**7.1 Class Counsel's Fees.** Class Counsel Fees correspond to 30% of the Settlement Amount (\$28,667.16 plus GST and QST) plus \$2,500.00 (inclusive of taxes) for disbursements and fees, which amount includes all disbursements and fees, or any lesser amount ordered by the Court. For clarity, Class Counsel Fees are to be deducted from the Settlement Amount, not paid in addition to it by Defendants. Class Counsel will seek approval from the Court of the Class Counsel Fees.

**7.2 Settlement Not Conditional upon Approval of Class Counsel Fees.** This Settlement is not conditional upon the approval of the Class Counsel Fees by the Court. For purposes of clarity, if the Court denies or reduces the amount of approved Class Counsel Fees, the Settlement will remain valid and effective, and the difference will be paid to Québec Class Members.

**7.3 Fonds d'aide aux actions collectives.** Class Counsel hereby declares that it did not seek, and therefore did not receive, any financial assistance or funding from the *Fonds d'aide aux actions collectives* relating to this file. Moreover, this Settlement provides for the collective recovery of claims and, as such, the Parties consider there is no portion of the Settlement Amount which must be remitted to the *Fonds d'aide aux actions collectives* under the present Settlement. However, in the event that the Court concludes that any amount or percentage of the Settlement Amount (other than the balance remaining in the event of undeposited cheques, if any) is payable to the *Fonds d'aide aux actions collectives*, such amounts will be deducted from the amounts to be paid to Québec Class Members.

**7.4 No Additional Amounts Due.** Defendants shall not be liable for any additional attorneys' fees, costs and expenses of Class Counsel or the Class Representative in the Class Action.

**8. PUBLICITY**

In issuing public statements, including responding to any inquiries from the public media concerning the Class Action and/or the Settlement of the Class Action, the Class Representative, Class Counsel, Defendants, and Defendants Counsel will limit their statements to promoting the virtues of the Settlement or other statements that comport the Agreement. Class Representative and Class Counsel shall not engage in any conduct or make any statement, directly or indirectly, that the settlement of claims contemplated by this Agreement constitutes an admission of liability or an admission of the validity or accuracy of any of the allegations in the Class Action. However, nothing shall limit the ability of Defendants or its affiliated companies to make such public disclosures as the applicable laws require or to provide information about the Settlement to government officials or its insurers/reinsurers.

**9. NOTICE**

Any communication, verification, or notice sent by any Party in connection with this Agreement shall be sent by email as follows:

**To Applicant:**

Mtre Joey Zukran  
LPC AVOCATS  
276 Saint-Jacques Street  
Suite 801  
Montréal, Québec H2Y 1N3  
Email: [jzukran@lpclex.com](mailto:jzukran@lpclex.com)

**To Defendants:**

Mtre Éric Préfontaine  
Mtre Josy-Ann Therrien  
OSLER, HOSKIN & HARCOURT, LLP  
1000 de la Gauchetière Street West  
Suite 2100  
Montréal, Québec H3B 4W5  
Email: [eprefontaine@osler.com](mailto:eprefontaine@osler.com) /  
[jatherrien@osler.com](mailto:jatherrien@osler.com)

**10. REPRESENTATIONS AND WARRANTIES**

**10.1 Parties Authorized to Enter into Agreement.** Each person executing this Agreement represents and warrants that he or she is fully authorized to enter into this Agreement and to carry out the obligations provided for herein.

**10.2 Best Efforts.** The Class Representative, Québec Class Members and their undersigned counsels agree that the terms of the Agreement reflect a good-faith settlement of disputed claims. They consider the settlement effected by this Agreement to be fair and reasonable and will use their best efforts to seek approval of the Agreement by the Court. They each represent and warrant that they have not made, nor will they (a) attempt to void this Agreement in any way, or (b) solicit, encourage, or assist in any fashion any effort by any person (natural or legal) to object to the settlement under this Agreement.

## 11. MISCELLANEOUS

**11.1 Entire Agreement.** This Agreement contains the entire agreement between the Parties and supersedes all prior understandings, agreements, or writings regarding the subject matter of this Agreement.

**11.2 No Liability.** This Agreement does not constitute, is not intended to constitute, and will not under any circumstances be deemed to constitute, an admission of wrongdoing or liability by any Party, such wrongdoing and liability being expressly denied and no final adjudication having been made. The Parties have entered into the Agreement solely as a compromise of all claims for the purpose of concluding the disputes between them, and the Agreement may not be used by any third party against any Party. The entering into and carrying out of the Agreement, and any negotiations or proceedings related to it, shall not be construed as, or deemed evidence of, an admission or concession by any of the Parties or a waiver of any applicable statute of limitations (except as provided by law), and shall not be offered or received into evidence in any action or proceeding against any Party in any court, administrative agency or other tribunal for any purpose whatsoever.

**11.3 Governing Law and Jurisdiction.** This Agreement is intended to and shall be governed by and interpreted in accordance with the laws of the Province of Québec, Canada. The signatories hereby submit to the exclusive jurisdiction of the Courts of the Province of Québec, Canada, District of Montreal, concerning any and all issues related to the interpretation, application or execution of this Agreement.

**11.4 Agreement Binding on Successors in Interest.** This Agreement shall be binding on and inure to the benefit of the respective heirs, successors, and assigns of the signatories.



**11.5 Execution in Counterparts.** This Agreement shall become effective upon its execution by all of the signatories. The signatories may execute this Agreement in counterparts. Each counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all signatories had signed the same instrument.

**11.6 Signatures.** Each person executing this Agreement warrants that such person has the full authority to do so. Signatures sent in PDF format by email will constitute sufficient execution of this Agreement.

**11.7 English Language.** The signatories acknowledge and agree that the present Settlement Agreement was drafted in the English language at the wish of the Parties thereto. The Parties will prepare a French translation of this Settlement Agreement. In case of discrepancy, the executed English version will prevail. *Les signataires reconnaissent et acceptent que la présente entente a été rédigée en langue anglaise à la demande expresse de toutes les parties. Les Parties vont préparer une traduction française de cette entente. En cas de divergence, la version anglaise signée va prévaloir.*

[signatures on the following page]

**IN WITNESS WHEREOF**, the Parties hereto and their attorneys signed on the dates and at the places detailed below.

**Montreal, Québec, Canada**

**January 21, 2024**



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LPC AVOCATS  
PER: MTRE JOEY ZUKRAN  
Class Counsel

**Montreal, Québec, Canada**

**January 21, 2024**



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JEREMIE ABKHIZER  
Class Representative  
Québec Class Member #1

**Montreal, Québec, Canada**

**January \_\_\_\_\_, 2024**

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OSLER, HOSKIN & HARCOURT, LLP  
Counsel for Defendants Snapcommerce,  
Inc. and Snapcommerce Holdings, Inc.

**City of \_\_\_\_\_, California, USA**

**January \_\_\_\_\_, 2024**

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HUSSEIN FAZAL  
Authorized signatory for Defendants  
Snapcommerce, Inc. and  
Snapcommerce Holdings, Inc.

**IN WITNESS WHEREOF**, the Parties hereto and their attorneys signed on the dates and at the places detailed below.

**Montreal, Québec, Canada**  
**January \_\_\_\_\_, 2024**

**Montreal, Québec, Canada**  
**January \_\_\_\_\_, 2024**

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LPC AVOCATS  
PER: MTRE JOEY ZUKRAN  
Class Counsel

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JEREMIE ABKHIZER  
Class Representative  
Québec Class Member #1

**Montreal, Québec, Canada**  
**January 22, 2024**

**City of San Francisco, California, USA**  
**January 21, 2024**

*Osler, Hoskin & Harcourt LLP*



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OSLER, HOSKIN & HARCOURT, LLP  
Counsel for Defendants Snapcommerce,  
Inc. and Snapcommerce Holdings, Inc.

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HUSSEIN FAZAL  
Authorized signatory for Defendants  
Snapcommerce, Inc. and  
Snapcommerce Holdings, Inc.

**SCHEDULE A**  
(CONFIDENTIAL AND UNDER SEAL)

**Montreal, Québec, Canada**

**January\_\_\_\_, 2024**

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Québec Class Member #2

**Montreal, Québec, Canada**

**January\_\_\_\_, 2024**

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Québec Class Member #3

**Montreal, Québec, Canada**

**January\_\_\_\_, 2024**

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Québec Class Member #4

**Montreal, Québec, Canada**

**January\_\_\_\_, 2024**

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Québec Class Member #5

**Montreal, Québec, Canada**

**January\_\_\_\_, 2024**

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Québec Class Member #6