

SUPERIOR COURT

(Class Action)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-001210-224

DATE: February 12th, 2024

BY THE HONOURABLE PIERRE NOLLET, J.S.C.

ALI ELGADI.
Plaintiff

v.

WHATSAPP LLC.
META PLATFORMS INC.
Defendants

JUDGMENT ON DISCONTINUANCE

[1] On November 28, 2022, the Applicant filed an *Application to Authorize the Bringing of Class Action and to Appoint the Status of Representative Plaintiff* (the “**Application**”) against Whatsapp LLC and Meta Platforms, Inc. (the “**Defendants**”), on behalf of the following group:

All WhatsApp users in Canada whose phone numbers were compromised in the month of November 2022 and whose personal information was then put up for sale on the dark web;

(hereinafter referred to as the “**Class**”)

[2] Plaintiff alleged that a data breach occurred within What'sApp systems which would have purportedly compromised personal and highly sensitive information.

[3] The proposed class action was filed following media reports alleging that the personal information of WhatsApp users had been compromised and was actively being sold on hacker forums on the dark web online. They also indicate that the "*seller did not specify how they obtained the database*".

[4] On May 31, 2023, the Defendants filed an *Application of the Defendants Whatsapp LLC and Meta Platforms, Inc., for Leave to Adduce Evidence*, notably containing an affidavit in which the Defendants deny that any data breach occurred.

[5] Additionally, it appears that no other class action lawsuits or other action have been taken against WhatsApp LLC or Meta Platforms, Inc. in relation to the allegations contained in the Application.

[6] Furthermore, the Application referred to the disclosure of Class members' phone number while it was demonstrated that the essence of the application required the disclosure of such phone number and did not constitute an unauthorized breach of personal data.

[7] In light of the above – and considering the leading jurisprudence in Quebec on data breach cases – the Applicant indicated that he no longer wishes to proceed with this putative class action and is asking the Court for the permission to discontinue in favour of the Defendants who accept such a discontinuance without costs.

[8] No other putative class members have expressed their interest to class counsel to act as lead plaintiff and to litigate this file.

[9] Putative class members are not prejudiced by the discontinuance, as neither the Applicant nor any putative class member are giving any release to Defendants.

[10] The Applicant agrees to file a public notice of the discontinuance by posting it to the Quebec Class Action Registry.

[11] The Applicant has not requested or received any funding from the *Fonds d'aide aux actions collectives* in this file. Defendants have agreed to reimburse class counsel up to \$6,000 inclusive of all taxes upon presentation of receipts, to cover a portion of the disbursements incurred to date.

FOR THESE REASONS, THE COURT:

[12] **PRAISES ACT** of the discontinuance filed on February 5, 2024, in favour of the Defendants Whatsapp LLC and Meta Platforms, Inc.;

[13] **AUTHORIZES** the Applicant to discontinue the action in favour of the Defendants Whatsapp LLC and Meta Platforms, Inc. without costs;

[14] **ORDERS** the Applicant to ensure that a copy of the discontinuance be published on the Quebec Class Action Registry;

[15] **THE WHOLE** without legal costs

PIERRE NOLLET, J.S.C.

Me Joey Zukran
LPC Avocats inc.
Plaintiff's attorney.

Me Samuel Lepage
McCarthy Tetrault LLP
Defendants' Attorneys

Hearing date: On docket