

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N^o: 500-06-000885-174

SUPERIOR COURT
(Class Action)

DANIEL LI residing and domiciled at [REDACTED]
[REDACTED];

Applicant

-vs-

EQUIFAX INC., a legal person, and a company duly incorporated pursuant to the laws of the State of Georgia in the United States of America having its principal place of business at 1550 W Peachtree St, Atlanta, Georgia 30309, Unites States of America;

-and-

EQUIFAX CANADA CO, a legal person, and a company duly incorporated pursuant to the laws of the Province of Nova Scotia having its principal place of business at 900-1959 Upper Water Street Halifax Nova Scotia B3J 3N2

Defendants

**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO
APPOINT A REPRESENTATIVE PLAINTIFF
(Art. 574 C.C.P. and following)**

**TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT OF
QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE APPLICANT
STATES THE FOLLOWING:**

GENERAL PRESENTATION

1. The Applicant wishes to institute a class action on behalf of the following Class, of which he is a member, namely:

All persons in Quebec who had, at any time prior to September 7, 2017, personal or credit data collected and stored by Equifax and who were subject to risk of data loss as a result of the breach which occurred between May and July 2017 (hereinafter the “**Data Breach**”) or any other Class(es) or Sub-Class(es) to be determined by the Court;

(herein after, “**Class Member(s)**”, the “**Class**”, the “**Member(s)**”);

The Defendants

2. The Defendants are directly connected as related, parent or wholly-owned subsidiary companies;
3. Equifax Inc. is a multi-billion dollar corporation headquartered in Atlanta, Georgia, as shown in the extract from the Georgia corporate registry communicated herein as **Exhibit P-1**, that provides credit information services to millions of businesses, governmental units, and consumers across the globe;
4. Equifax Inc. operates various subsidiaries including Equifax Information Services, LLC, and Equifax Consumer Services, LLC aka Equifax Personal Solutions aka PSOL. Each of these entities acted as agents of Equifax or in the alternative, acted in concert with Equifax as alleged in this Application;
5. Equifax Canada Co. is a corporation headquartered in Halifax, Nova Scotia with offices throughout Canada that provides credit information services, and is a fully owned subsidiary of Equifax Inc, communicated herein as **Exhibit P-2**;
6. Equifax Inc. and Equifax Canada Co. are directly connected as related, parent or wholly-owned subsidiary companies with interrelated management and control. Each is responsible and legally liable for the conduct of the other;

7. The actions of Equifax Inc. and Equifax Canada Co. will be collectively referred to as the actions of “Equifax” or the “Defendants”.
8. At all material times, the Defendants intended that its business be operated as a global enterprise carrying out business worldwide, including in Quebec and Canada.
9. The Defendants at all material times carried on business as a partnership, joint venture or other common enterprise inextricably interwoven with each other, making each Defendant vicariously liable for the acts and omissions of the others;
10. The Applicant, and no member of the public, could know what individual actions were taken by any of the individual Defendants because they act in concert and secretively;

General Facts:

11. Equifax collects and stores personal information including but not limited to the name, date of birth, social insurance number, current and prior residences and addresses, and other identifying information about individuals (“**Private Information**”) to facilitate the provision of its credit information services;
12. Equifax owed a legal duty to consumers like the Plaintiff and Class Member to use reasonable care to protect the Private Information and to prevent unauthorized access to the same by third parties;
13. Equifax knew or should have known that any failure to protect the Private Information of the Plaintiff and Class Members from unauthorized access would cause serious risks of credit harm and identity theft for years to come;
14. On September 7, 2017, by way of a press release communicated herein as **Exhibit P-3**, Equifax announced for the first time that from May to July 2017, its database storing the Plaintiff’s and

Class Members' credit and personal information had been hacked by unauthorized third parties, subjecting the same to credit harm and identify theft (the "Data Breach"):

15. Equifax had become aware of the Data Breach no later than July 29, 2017, but did not advise the Applicant or the Class Members of the Data Breach until September 7, 2017;
16. More than 143 million consumers were affected, including an undisclosed number of Canadians;
17. In an attempt to increase profits, Equifax negligently failed to maintain adequate technological safeguards to protect the Applicant's and Class Members' Private Information from unauthorized access by unauthorized third-parties.
18. Equifax knew or should have known that failure to maintain adequate technological safeguards would eventually result in a massive data breach. Equifax could have and should have substantially increased the amount of money it spent to protect against cyber-attacks but chose not to;
19. Consumers like the Applicant and Class Members should not have to bear the expense caused by Equifax's negligent failure to safeguard their credit and personal information from cyber-attackers;
20. The Data Breach was caused and enabled by Equifax's knowing violation or disregard of its obligations to abide by best practices and industry standards concerning the security of payment systems;
21. Equifax failed to comply with security standards and allowed its customers' financial information to be compromised by failing to implement security measures that could have prevented or mitigated the Data Breach that occurred;
22. Equifax failed to have implemented systems which would have alerted it to the unusual activity necessary to collect such large amounts of data;

23. Equifax failed to act diligently and responsibly by delaying notification of the Data Breach for more than a month after its discovery;
24. The Applicant and Class Members seek damages, redress, and other compensation from the Defendants for harm, inconveniences, economic losses, mental distress or other losses resulting from the unauthorized access to their confidential personal and information records;
25. Since May 2017, personal and financial information of millions of consumers stored by Equifax has been compromised due to the Data Breach;
26. The information stolen from Equifax including the Applicant's and Class Members' financial and personal information, is extremely valuable to thieves;
27. Identity theft occurs when someone uses another's personal and financial information such as that person's name, address, credit card number, credit card expiration dates, and other information, without permission, to commit fraud or other crimes;
28. According to the CAFC, from January to November 2015, more than 17,000 Canadians reported being victimized by identity fraud and losses totaled \$10.7-million; however, more often than not identity theft goes unreported and the actual totals are much higher, as it appears in the article "Waging War On Fraud And Identity Theft", by Cairine Wilson, CPA Canada, communicated herein as **Exhibit P-4**;
29. Private Information such as that stolen in the Data Breach is highly coveted by and a frequent target of hackers. Legitimate organizations and the criminal underground alike recognize the value of such data. Otherwise, they would not pay for or maintain it, or aggressively seek it. Criminals seek personal and financial information of consumers because they can use biographical data to perpetuate more and larger thefts;
30. The ramifications of Equifax's failure to keep the Applicant's and Class Members' personal and financial information secure are severe. According to the Canadian Anti-Fraud Centre

(“CAFC”), criminals can use a person’s stolen or reproduced personal or financial information to, among other things, access the person’s computer, email accounts, bank accounts, open new bank accounts, transfer bank balances, apply for loans, credit cards and other goods and services, make purchases, hide their criminal activities, obtain passports or receive government benefits, as it appears more fully in a copy of a page of the CAFA’s website, communicated herein as **Exhibit P-5**;

31. In addition, the thieves use the Private Information to create fake credit cards that can be swiped and used to make purchases as if they were the real credit cards. Additionally, the thieves could reproduce stolen debit cards and use them to withdraw cash from ATMs;
32. Identity thieves can use Private Information such as that pertaining to the Applicant and the Class, which Equifax failed to keep secure, to perpetuate a variety of crimes that harm the victims. For instance, identity thieves may commit various types of crimes such as immigration fraud, obtaining a driver’s license or identification card in the victim’s name but with another’s picture, using the victim’s information to obtain government benefits, or filing a fraudulent tax return using the victim’s information to obtain a fraudulent refund. Privacy experts acknowledge that it may take years for identity theft to come to light and be detected;
33. A portion of the services purchased from Equifax by the Applicant (directly and indirectly) and the other Class Members necessarily included compliance with industry-standard measures with respect to the collection and safeguarding of Private Information, including their credit and debit card information.
34. The cost to Equifax of collecting and safeguarding Private Information is built into the price of all of its services. Because the Applicant and the other Class Members were denied privacy protections that they paid for (directly or indirectly) and were entitled to receive, the Applicant and the other Class Members incurred actual monetary damages.
35. The Defendants were negligent through the following acts and/or omissions:

- a) lost and/or allowed unauthorized access to personal and or financial information of the Class Members;
- b) failed to protect the Class Members' Private Information by allowing for unlawful access or use of the confidential Private Information for purposes other than for which it was supplied to them, without consent;
- c) breached the Class Member's privacy;
- d) intruded upon the Class Members' seclusion;
- e) failed to warn and/or inform Class Members of the Data Breach in a timely manner;
- f) caused Class Members harm, inconveniences, economic losses, mental distress or other losses resulting from the unauthorized access to their confidential personal and information records;

FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE APPLICANT

36. The Plaintiff, Mr, Li was a customer of Equifax and provided Equifax with his Private Information in order to receive credit information services.

37. Mr. Li believed that the Defendants would maintain the Private Information contained on his credit card in a reasonably secure manner and provided his credit card to the Defendants on that basis.

38. During the Class Period, the Defendants had in their possession, the Private Information of the Plaintiff.

39. Mr. Li's Private Information was compromised in and as a result of the Data Breach.

40. Had Mr. Li known that the Defendants would not maintain his Private Information in a reasonably secure manner, he would not have provided his Private Information to the Defendants.

41. Mr. Li was harmed by having his Private Information compromised and faces the imminent and certainly impending threat of future additional harm from the increased threat of identity

theft and fraud due to her Private Information being sold on the Internet black market and misused by criminals and increased personal risk that thieves or assailants with information about his residence, interests, and financial circumstances may target him for a break-in, physical or sexual assault, kidnapping, or other physical endangerment.

42. Mr. Li must now take steps to protect her personal information, such as cancelling credit and debit cards, or purchasing identity protection services such as credit monitoring, all of which are highly inconvenient and may result in out-of-pocket costs.

43. It is difficult and costly for Mr. Li to determine if he has been a victim of identify fraud due to the malfeasance committed by the Defendants.

44. Notwithstanding Mr Li's precautions, he is still at risk of being a victim of credit fraud or identity theft in the future as a result of the Data Breach and the Defendants failures.

45. Mr. Li has also experienced mental distress as a result of the aforementioned.

FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE CLASS

46. Members of the Class consist of individuals whose personal and/or financial information was lost by and/or stolen from the Defendants as a result of a data breach that occurred around May 2017;

47. Each Member of the Class is justified in claiming at least one or more of the following:

a) general and special damages in an amount to be determined at trial for:

- (i) economic loss;
- (ii) inconveniences;
- (iii) mental distress; and
- (iv) other losses;

- b) aggravated, exemplary, and punitive damages;
- c) pre- and post-judgment interest on the foregoing sums;
- d) such further and other relief as counsel may advise and this Honourable Court may allow;

48. All of these damages to the Class Members are a direct and proximate result of the Defendants' conduct;

49. On behalf of Class Members domiciled within the Province of Quebec (a "Quebec Class", if deemed necessary), the Plaintiff asserts claims for moral and material damages because the Defendants failed to abide by the rules of conduct which lay upon them so as not to cause injury to the Quebec Class contrary to articles 1457 and 1463-1464 of the Civil Code of Quebec, SQ 1991 ("CCQ"), and as a result are liable to the Quebec Class for moral and material damages.

50. As a result of the Defendants' acts and omissions as particularized herein, the Defendants failed to respect the reputation and privacy of the Quebec Class Members by communicating or, alternatively, preventing the disclosure of, the Private Information to third parties without authorization under law or the consent of the Quebec Class Members, contrary to articles 3, 35, and 37 of the CCQ.

51. The Defendants, through the acts and omissions particularized herein, unlawfully interfered with the Quebec Class Members' right to respect for private life and their right to non-disclosure of confidential information protected by sections 5 and 9 of the Charter of Human Rights and Freedoms, RSQ c C-12 (the "Quebec Charter").

52. As a result of the Defendants' unlawful interference with the Quebec Class Members' rights as protected by the Quebec Charter, the Defendants are liable to the Quebec Class Members for moral, material, and punitive damages pursuant to section 49 of the Quebec Charter.

CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

The composition of the Class makes the application of Article 91 or 143 C.C.P. impractical or impossible for the reasons detailed below:

53. The number of persons included in the Class is estimated to be in the thousands of not millions;
54. The names and addresses of all persons included in the Class are not known to the Applicant but are known to the Defendants;
55. In addition, given the costs and risks inherent in an action before the Courts, many people will 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. Furthermore, individual litigation of the factual, scientific, and legal issues raised by the conduct of the Defendants would increase delay and expense to all parties and to the Court system;
56. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Member of the Class to obtain mandates and to join them in one action;
57. In these circumstances, a class action is the only appropriate procedure for all of the Members of the Class to effectively pursue their respective rights and have access to justice;

The questions of fact and law which are identical, similar, or related with respect to each of the Class Members:

58. The recourses of the Class Members raise identical, similar or related questions of fact or law, namely:
 - a) Were the Defendants negligent in the storing and safekeeping of the personal and financial information of the Class Members whose information was ultimately lost and/or stolen around May 2017?
 - b) Are the Defendants liable to pay damages to the Class Members as a result of the Data Breach, including actual monetary losses or expenses incurred, loss of time, inconvenience, moral damages, and/or punitive damages caused by the loss of said information, and if so in what amounts?
59. The interests of justice favour that this application be granted in accordance with its conclusions;

NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

60. The action that the Applicant wishes to institute for the benefit of the members of the Class is an action in damages;

61. The conclusions that the Applicant wishes to introduce by way of an application to institute proceedings are:

GRANT Applicant's action against the Defendants;

ORDER and CONDEMN Defendants to reimburse the purchase price or amounts paid by the Class Members, and any other amounts paid by Class Members in connection with the purchase, plus interest as well the additional indemnity since the date of purchase;

CONDEMN Defendants to pay compensatory damages to the Class Members for the loss of use of their personal information, trouble, inconvenience, loss of time, anxiety and fear, and other moral damages;

CONDEMN Defendants to pay punitive and/or exemplary damages to the Class Members, to be determined by the Court;

GRANT the class action of the Applicant on behalf of all the Members of the Class;

ORDER the treatment of individual claims of each Member of the Class in accordance with articles 599 to 601 C.C.P.;

RENDER any other order that this Honourable Court shall determine and that is in the interest of the Members of the Class;

THE WHOLE with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

62. The Applicant suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:

- a) Many Class Members are domiciled in the District of Montreal;
 - b) Many of the Class Members had their private personal and/or financial information accessed or stolen in District of the Montreal;
 - c) The Applicant's counsel is domiciled in the District of Montreal;
63. The Applicant, who is requesting to obtain the status of representative, will fairly and adequately protect and represent the interest of the Members of the Class, since Applicant:
- a) had private personal and/or financial information accessed and/or stolen;
 - b) understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Members of the Class;
 - c) is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class attorneys in this regard;
 - d) is ready and available to manage and direct the present action in the interest of the Class Members that the applicant wishes to represent, and is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class;
 - e) does not have interests that are antagonistic to those of other members of the Class;
 - f) has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intend to keep informed of all developments;
 - g) is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Members of the Class and to keep them informed;
64. The present application 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;

ASCRIBE the Applicant the status of representative of the persons included in the Class herein described as:

All persons in Quebec who had, at any time prior to September 7, 2017, personal or credit data collected and stored by Equifax and who were subject to risk of data loss as a result of the breach which occurred between May and July 2017 (hereinafter the “**Data Breach**”) or any other Class(es) or Sub-Class(es) to be determined by the Court;

- **IDENTIFY** the principle questions of fact and law to be treated collectively as the following:
 - a) Were the Defendants negligent in the storing and safekeeping of the personal and financial information of the Class Members whose information was ultimately lost and/or stolen around May 2017?
 - b) Are the Defendants liable to pay damages to the Class Members as a result of the Data Breach, including actual monetary losses or expenses incurred, loss of time, inconvenience, moral damages, and/or punitive damages caused by the loss of said information, and if so in what amounts?

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

GRANT Applicant’s action against The Defendants;

ORDER Defendants to pay to the Class Members compensatory damages for all monetary losses or expenses caused as a result of Defendant's loss of said Class Member's personal information, and **ORDER** collective recovery of these sums;

CONDEMN Defendants to pay to the Class Members compensatory and/or moral damages to every Class Member in the amount to be determined by the Court as a result of Defendant's loss of said member's personal information, and **ORDER** collective recovery of these sums;

CONDEMN Defendants to pay punitive and/or exemplary damages to the Class Members, to be determined by the Court;

GRANT the class action of The Applicant on behalf of all the Members of the Class;

ORDER the treatment of individual claims of each Member of the Class in accordance with articles 599 to 601 C.C.P.;

RENDER any other order that this Honourable Court shall determine and that is in the interest of the Members of the Class;

THE WHOLE with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

DECLARE that all Members of the Class 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 30 days from the date of the publication of the notice to the Members;

ORDER the publication of a notice to the Members of the Class in accordance with Article 579 C.C.P.;

THE WHOLE with costs to follow.

MONTREAL, SEPTEMBER 11, 2017



MERCHANT LAW CLASS LLP

Attorneys for the Applicant

SUMMONS
(Articles 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 a Representative Plaintiff in the office of the Superior Court of Quebec in the judicial district of Montreal.

Defendants' Answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Rue Notre-Dame Street Est, Montréal, Québec, H2Y 1B6, 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 cases 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 plaintiff 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 plaintiff'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 filed, 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

In support of the Application for Authorization to Institute a Class Action and to Appoint a Representative Plaintiff, the Applicant intends to use the following exhibits:

Exhibit P-1: Equifax corporate profile in the website of the state of Georgia;

Exhibit P-2: Equifax Canada Co corporate profile in the *Registraire des entreprises du Québec* ;

Exhibit P-3: Copy of Equifax Press release

Exhibit P-4 : Copy of "Waging War on Fraud and Identity Theft", by Cairine Wilson, CPA Canada, Huffinton Post (http://www.huffingtonpost.ca/Cairine-Wilson-CPA-Canada/fraud-and-identity-theft_b_9491434.html)

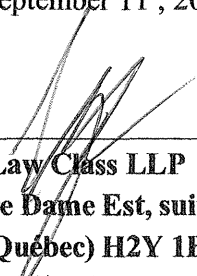
Exhibit P-5: copy of a page of the Canadian Anti-Fraud website on identity fraud, <http://www.antifraudcentre-centreantifraude.ca/fraud-escroquerie/types/identity-identite/index-eng.htm>

These Exhibits 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.

Montreal, September 11 , 2017



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Attorneys for the Applicant

NOTICE OF PRESENTATION
(Articles 146 and 574 al.2 C.P.C.)

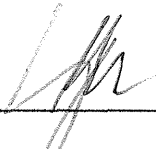
TO: EQUIFAX INC.
1550 W Peachtree St,
Atlanta, Georgia 30309,
Unites States of America;

TO: EQUIFAX CANADA CO
900-1959 Upper Water Street
Halifax Nova Scotia B3J 3N2

TAKE NOTICE that the present APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO APPOINT A REPRESENTATIVE PLAINTIFF will be presented before one of the Honourable Judges of the Superior Court of Québec, at the Montreal courthouse, located at 1, rue Notre-Dame Est, in the city and District of Montréal, on the date set by the coordinator of the class actions chamber.

PLEASE ACT ACCORDINGLY.

Montreal, September 11, 2017.



Merchant Law Class LLP
Attorneys for the Applicant

N°

SUPERIOR COURT
DISTRICT OF MONTRÉAL
(CLASS ACTION)

DANIEL LI

Plaintiff

-vs-

EQUIFAX INC.

-and-

EQUIFAX CANADA CO

Defendants

**APPLICATION FOR AUTHORIZATION TO
INSTITUTE A CLASS ACTION AND TO
APPOINT A REPRESENTATIVE PLAINTIFF**

ORIGINAL

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