

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

(Class Action)
SUPERIOR COURT

NO: 500-06-000897-179

RAPHAEL BADAOUI, 


Applicant

-vs-

APPLE CANADA INC., legal person having its head office at 1600-120 Bremner Boulevard, Toronto Province of Ontario, M5J 0A8

and

APPLE INC., legal person having its head office at 1 Infinite Loop, Cupertino, California, 95014, United States of America

Defendants

**APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS ACTION
AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF
(ARTICLES 571 AND FOLLOWING C.C.P.)**

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTREAL, YOUR APPLICANT STATES AS FOLLOWS:

I. GENERAL PRESENTATION

1. On December 28th, 2017, Defendants Apple Canada Inc. and Apple Inc. (hereinafter collectively referred to as "**Apple**") publicly admitted the following, Applicant disclosing the support article published by Apple on its website titled "*iPhone Battery and Performance - Understand iPhone performance and its relation to your battery*" as **Exhibit P-1**:

Batteries are a complex technology, and there are a number of variables that contribute to battery performance and related

iPhone performance. All rechargeable batteries are consumables and have a limited lifespan — eventually their capacity and performance decline so that they need to be serviced or recycled.

As this happens, it can contribute to changes in iPhone performance.

[our emphasis underlined in bold]

2. Apple further confirms that the products it manufactures, markets, sells and services are only durable for a limited amount of time, even in normal use, as it appears from its webpage titled "*Battery Service and Recycling*", Applicant disclosing **Exhibit P-2**;
3. According to Apple (see Exhibit P-2) the products referred to in the preceding paragraph include iPhones, Apple Watches, iPads, iPods and MacBooks (hereinafter the "**Apple Products**");
4. Apple Products come with a one-year warranty that includes "*service coverage for a defective battery*", during which Apple will replace defective batteries at no charge to Class Members;
5. However, after the one-year conventional warranty period, Class Members who purchased and/or own Apple Products with defective batteries are forced to pay Apple anywhere from \$99.00 plus taxes and more if they wish to keep using their Apple Products;
6. Apple also sells extended warranties called "AppleCare" and "AppleCare+", which, for an additional cost of \$169.00 plus taxes and more (depending on the Apple Product) extends consumers' coverage to 2-3 years from their original purchase date;
7. When marketing, selling and servicing its Apple Products and its AppleCare extended warranties, Apple fails to inform Quebec consumers of their legal rights under Quebec's *Consumer Protection Act* (hereinafter the "**CPA**"), which provides as follows:
 37. Goods forming the object of a contract must be fit for the purposes for which goods of that kind are ordinarily used.
 38. Goods forming the object of a contract must be durable in normal use for a reasonable length of time, having regard to their price, the terms of the contract and the conditions of their use.
8. Considering the high prices paid by Class Members for Apple Products, in normal use Apple Products are not durable for a reasonable length of time;
9. In other jurisdictions, such as in the United Kingdom, Apple Products are under warranty for six-years as a minimum, while Quebec consumers only receive a one-year warranty for virtually identical Apple Products, Applicant disclosing **Exhibit P-3**;

10. Consequently, Applicant wishes to institute a class action on behalf of the following class and sub-class of which he is a member, namely:

Class:

Every consumer, pursuant to the terms of Quebec's *Consumer Protection Act*, who purchased an Apple Product including an iPhone, Apple Watch, iPad, iPod and/or a MacBook;

(hereinafter referred to as the "Class")

Sub-Class:

Every consumer, pursuant to the terms of Quebec's *Consumer Protection Act*, who purchased "AppleCare" and/or "AppleCare+" for an Apple Product including an iPhone, Apple Watch, iPad, iPod and/or a MacBook, and was not informed of their legal warranty under sections 37 and 38 of the *CPA* at the time of purchase;

(hereinafter referred to as the "Sub-Class")

or any other Class or Sub-Class to be determined by the Court;

II. THE PARTIES

11. Applicant resides in the judicial district of Montreal and is a consumer within the meaning of the *CPA*;
12. Defendant Apple Inc. is a multinational technology company based in Cupertino, California, that designs, develops, markets, sells and services consumer electronics, including Apple Products;
13. Defendant Apple Canada Inc. operates as a subsidiary of Defendant Apple, Inc. and engages in the distribution and servicing of Apple Products in Canada, as it appears from the extract of the CIDREQ, **Exhibit P-4**;
14. The Defendants are "*merchants*" within the meaning of the *CPA* and their activities are governed by this legislation, among others;

III. CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF (SECTION 575 C.C.P.):

A) THE FACTS ALLEGED APPEAR TO JUSTIFY THE CONCLUSIONS SOUGHT

15. On or around December 20th, 2014, Applicant purchased an Apple iPhone 6+ for \$969.00 for his personal use, Applicant disclosing his proof of purchase as **Exhibit P-5**;

16. Applicant purchased the iPhone so that he can use it as a mobile phone with Rogers, to take pictures and videos, as well as to use the internet;
17. Initially, the Applicant's iPhone functioned perfectly;
18. However, after two years of normal use, the battery on Applicant's iPhone began to die much quicker than usual;
19. As a result, Applicant had to continuously charge his phone at home overnight, at work during the day and in his car while commuting;
20. After two years, the Applicant's iPhone was no longer fit to be used as a mobile smartphone, since it almost always had to be connected to a charger and dies very quickly when it is not;
21. Contrary to what is provided for under section 38 of the *CPA*, the Applicant's iPhone was not durable in normal use for a reasonable length of time, having regard to its price (\$969.00), the terms of the contract and the conditions of its use (a mobile smartphone);
22. Applicant would have never paid \$969.00 for his iPhone had he known at the time of his purchase that his iPhone would have only been durable for two years (a fact Apple must have known well before its admission/notice to consumers on December 28th, 2017);
23. In light of the 6-year warranty offered by Apple to consumers in the United Kingdom, Applicant alleges that 6 years, at the least, would constitute a reasonable length of time under section 38 of the *CPA*;
24. By refusing to replace the Applicant's defective battery free of charge after the one-year conventional warranty period, Apple is profiting from its intentional violation of section 38 *CPA* by forcing the Applicant to purchase a replacement battery, Applicant disclosing **Exhibit P-6**;
25. The Applicant believes that further evidentiary support for his allegations will come to light after a reasonable opportunity for discovery;
26. Applicant's damages are a direct and proximate result of Apple's misconduct;
27. As a result of the foregoing, Applicant and Class and Sub-Class Members are justified in claiming compensatory damages, as well as punitive damages based on violations of section 38 *CPA* (pursuant to section 272 *CPA*);

Applicant's claim for punitive damages

28. Apple's overall conduct before, during and after the violation, was lax, careless, passive and ignorant with respect to Quebec consumers' rights and to their own obligations;

29. In this case, Apple continues to breach the *CPA*, without any explanation, for a significant period;
30. Aggravating the matter is that Apple has already extended its warranty period for consumers in other jurisdictions (such as in the United Kingdom and the European Union), but intentionally ignores the statutory rights of Quebec consumers;
31. This *laissez-faire* attitude, of it's not cheating unless you get caught, is in and of itself an important reason for this Court to impose measures that will punish Apple, as well as deter and dissuade other foreign entities from engaging in similar reprehensible conduct to the detriment of Quebec consumers;
32. The reality is that has Apple generated hundreds of millions of dollars in revenues over the years by selling its Apple Products, batteries and extended warranties to Quebec consumers, and abiding by Quebec's legal warranty under section 38 *CPA* would have an adverse effect on Apple's bottom line;
33. Indeed, Apple demonstrated through its behavior (before, during and after the violation) that it is more concerned about its bottom line than about consumers' rights and their own obligations under the *CPA*;
34. The punitive damages provided for in section 272 *CPA* have a preventive objective, that is, to discourage the repetition of such undesirable conduct;
35. Apple's violations were intentional, calculated, malicious and vexatious;
36. Applicant is accordingly entitled to claim and does hereby claim from Apple \$300.00 per Class Member on account of punitive damages;
37. Apple's patrimonial situation is so significant that the foregoing amount of punitive damages is appropriate in the circumstance;

B) THE CLAIMS OF THE MEMBERS OF THE CLASS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES OF LAW OR FACT:

38. All Class Members have a common interest both in proving the violation of section 38 of the *CPA* and in maximizing the aggregate of the amounts unlawfully charged to them by Apple;
39. All Sub-Class Members have a common interest both in proving the violation of sections 219 and 228 of the *CPA* and in maximizing the aggregate of the amounts unlawfully charged to them by Apple when purchasing an extended warranty (including "AppleCare" and "AppleCare+");
40. Class and Sub-Class Members also have an interest in proving that the fees charged by

Apple for its extended warranties are disproportionate, exploitative and abusive, because Class and Sub-Class Members had a statutory right to a legal warranty (at no fee) which Apple intentionally ignored;

41. The nature of the interest necessary to establish the standing of the Applicant must be viewed from the perspective of the common interest of the proposed Class and Sub-Class and not solely from the perspective of the representative plaintiff;
42. In this case, the legal and factual backgrounds at issue are common to all the members of the Class and Sub-Class, namely whether Apple: i) fails to respect the statutory warranty provided for under Quebec law; and ii) misleads consumers and/or fails to inform them of an important fact (i.e. the existence of a legal warranty under s. 38 CPA) when selling its Apple Products and extended warranties;
43. By reason of Apple's unlawful conduct, Applicant and every Class and Sub-Class Member have suffered damages, which they may collectively claim against Apple;
44. In taking the foregoing into account, all members of the Class and Sub-Class are justified in claiming the sums which they unlawfully overpaid to Apple, as well as punitive damages pursuant to section 272 CPA;
45. Each Class and Sub-Class Member is justified in claiming at least one or more of the following as damages:
 - Reimbursement of a portion of the costs of their Apple Product(s);
 - Reimbursement of the whole (or a portion) of the costs incurred to purchase an extended warranty from Apple; and
 - Punitive damages in the amount of \$300.00 each.
46. All of the damages to the Class and Sub-Class Members are a direct and proximate result of Apple's misconduct;
47. Individual questions, if any, pale by comparison to the common questions that are significant to the outcome of the present Application;
48. **The recourses of the Class and Sub-Class Members raise identical, similar or related questions of fact or law, namely:**
 - a) Did Apple fail in its obligations under sections 37 and 38 of the CPA to provide Class Members with a legal warranty under Quebec law, and if so, are Class Members entitled to compensation?
 - b) Did Apple engage in false, misleading, or deceptive acts or practices regarding the marketing, distribution, sale and/or servicing of Apple Products?

- c) Is Apple liable to the Class and Sub-Class members for reimbursement of a portion of the price paid for their Apple Products and/or Apple extended warranties as a result of its fault?
- d) Did Apple conceal or fail to mention an important fact in any of the representations made to Quebec consumers concerning Apple Products and/or Apple extended warranties?
- e) Is Apple liable to the Class and Sub-Class Members for reimbursement of the whole or a portion of the price paid for Apple Products and/or Apple extended warranties in reason of its concealment or failure to inform them?
- f) Does the disproportion between the fees charged to Class and Sub-Class Members for Apple's extended warranties and the value of the service provided by Apple constitute exploitation and objective lesion under section 8 of the *CPA*?
- g) Are the fees charged to Class and Sub-Class Members by Apple for its extended warranties excessively and unreasonably detrimental to consumers such that the contractual clauses allowing Apple to charge such fees are abusive under article 1437 of the *CCQ*?
- h) Is the clause concerning a one-year warranty in Apple's terms and conditions null, entitling Class and Sub-Class Members to a full reimbursement of the amounts paid to replace their defective batteries in Apple Products after the initial one-year period?
- i) Should an injunctive remedy be ordered to prohibit Apple from continuing to perpetrate its unfair, false, misleading, and/or deceptive conduct, as well as its concealment of important facts?
- j) Is Apple responsible to pay compensatory, moral and/or punitive damages to Class and Sub-Class Members and in which amount?

C) THE COMPOSITION OF THE CLASS

- 49. The composition of the Class and Sub-Class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings;
- 50. Apple has likely sold millions of Apple Products and extended warranties to consumers in Quebec during the Class Period;
- 51. The size of the Class is conservatively estimated to include tens of thousands of consumers in Quebec;
- 52. The names and addresses of all persons included in the Class are not known to the

Applicant, however, are likely in the possession of Apple;

53. Class members are very numerous and are dispersed across the province, across Canada and elsewhere;
54. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class and Sub-Class Member to obtain mandates and to join them in one action;
55. In these circumstances, a class action is the only appropriate procedure for all of the members of the Class and Sub-Class to effectively pursue their respective rights and have access to justice without overburdening the court system;

D) THE CLASS MEMBER REQUESTING TO BE APPOINTED AS REPRESENTATIVE PLAINTIFF IS IN A POSITION TO PROPERLY REPRESENT THE CLASS MEMBERS

56. Applicant requests that he be appointed the status of representative plaintiff for the following principal reasons recognized and applied liberally by recent jurisprudence:
 - a) he is a member of the Class and has a personal interest in seeking the conclusions that he proposes herein;
 - b) he is competent, in that he has the potential to be the mandatory of the action if it had proceeded under article 91 of the *Code of Civil Procedure*;
 - c) his interests are not antagonistic to those of other members of the Class;
57. Additionally, Applicant respectfully adds that:
 - a) he has the time, energy, will and determination to assume all the responsibilities incumbent upon him in order to diligently carry out the action;
 - b) he initially contacted his attorneys to mandate them to file the present application for the sole purpose of having his rights, as well as the rights of other Class and Sub-Class Members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of Apple's illegal behavior and so that Apple can be held accountable for its misconduct;
 - c) he cooperates and will continue to fully cooperate with his attorneys, who have experience in consumer protection-related class actions;
 - d) he has read this Application prior to its court filing, reviewed the exhibits in support thereof and understands the nature of the action;
58. As for identifying other Class and Sub-Class Members, Applicant draws certain inferences from the situation, notably from the notice Apple issued on its website on

December 28th, 2017, titled “A Message to Our Customers about iPhone Batteries and Performance” (Exhibit P-6). Consequently, Applicant realizes that by all accounts, there is a very important number of consumers that find themselves in an identical situation, and that it would not be useful for him to attempt to identify them given their sheer number;

59. For the above reasons, Applicant respectfully submits that his interest and competence are such that the present class action could proceed fairly and in the best interest of Class and Sub-Class Members;

IV. DAMAGES

60. During the Class Period, Apple has likely generated hundreds of millions of dollars selling Apple Products and extended warranties while intentionally choosing to ignore the law in Quebec;
61. Apple’s misconduct is reprehensible and to the detriment of vulnerable Quebec consumers;
62. Apple must be held accountable for the breach of obligations imposed on it by consumer protection legislation in Quebec, including:
- a) Quebec’s *Consumer Protection Act*, notably sections 37, 38, 219, 228 and 272;
63. In light of the foregoing, the following damages may be claimed against Apple:
- a) compensatory damages, in an amount to be determined, on account of the damages suffered; and
 - b) punitive damages, in the amount of \$300.00 per Class member, for the breach of obligations imposed on Apple pursuant to section 272 *CPA*;

V. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

64. The action that the Applicant wishes to institute on behalf of the members of the Class and Sub-Class is an action in damages, declaratory judgment and injunctive relief;
65. The conclusions that the Applicant wishes to introduce by way of an originating application are:

GRANT Plaintiff’s action against Defendants on behalf of all the Class and Sub-Class Members;

DECLARE the Defendants liable for the damages suffered by the Applicant and each of the Class and Sub-Class Members;

DECLARE that the fees charged by Defendants for their extended warranties amount to exploitation under section 8 of the *CPA*;

DECLARE that the fees charged by the Defendants for their extended warranties are excessively and unreasonably detrimental to consumers or adhering parties and are therefore not in good faith under article 1437 of the *CCQ*;

DECLARE abusive, null and in violation of public order the clause concerning a one-year warranty in the Defendants' terms and conditions;

ORDER the Defendants to cease from continuing their unfair, false, misleading, and/or deceptive conduct, as well as their concealment of important facts;

DECLARE that the legal warranty for Apple Products under section 38 of the *CPA* last for a period of at least six years;

CONDEMN the Defendants to pay to each Class and Sub-Class Member compensatory damages, in an amount to be determined, and **ORDER** collective recovery of these sums;

CONDEMN the Defendants to pay to each Class and Sub-Class Member the sum of \$300.00 on account of punitive damages, and **ORDER** collective recovery of these sums;

CONDEMN the Defendants to pay interest and the additional indemnity on the above sums according to law from the date of service of the Application to Authorize a Class Action;

ORDER the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class and Sub-Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendants to bear the costs of the present action at all levels, including the cost of all exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

RENDER any other order that this Honourable Court shall determine;

66. The interests of justice favour that this Application be granted in accordance with its conclusions;

VI. JURISDICTION

67. The Applicant suggests that this class action be exercised before the Superior Court of the province of Quebec, in the district of Montreal, because the Applicant has his

domicile and residence in the judicial district of Montreal;

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present application;

AUTHORIZE the bringing of a class action in the form of an originating application in damages;

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

Class:

Every consumer, pursuant to the terms of Quebec's Consumer Protection Act, who purchased an Apple Product including an iPhone, Apple Watch, iPad, iPod and/or a MacBook;

(hereinafter referred to as the "**Class**")

Sub-Class:

Every consumer, pursuant to the terms of Quebec's Consumer Protection Act, who purchased "AppleCare" and/or "AppleCare+" for an Apple Product including an iPhone, Apple Watch, iPad, iPod and/or a MacBook, and was not informed of their legal warranty under sections 37 and 38 of the CPA at the time of purchase;

(hereinafter referred to as the "**Sub-Class**")

or any other Class or Sub-Class to be determined by the Court;

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

- a) Did Apple fail in its obligations under sections 37 and 38 of the CPA to provide Class Members with a legal warranty under Quebec law, and if so, are Class Members entitled to compensation?
- b) Did Apple engage in false, misleading, or deceptive acts or practices regarding the marketing, distribution, sale and/or servicing of Apple Products?
- c) Is Apple liable to the Class and Sub-Class members for reimbursement of a portion of the price paid for their Apple Products and/or Apple extended warranties as a result of its fault?

- d) Did Apple conceal or fail to mention an important fact in any of the representations made to Quebec consumers concerning Apple Products and/or Apple extended warranties?
- e) Is Apple liable to the Class and Sub-Class Members for reimbursement of the whole or a portion of the price paid for Apple Products and/or Apple extended warranties in reason of its concealment or failure to inform them?
- f) Does the disproportion between the fees charged to Class and Sub-Class Members for Apple's extended warranties and the value of the service provided by Apple constitute exploitation and objective lesion under section 8 of the CPA?
- g) Are the fees charged to Class and Sub-Class Members by Apple for its extended warranties excessively and unreasonably detrimental to consumers such that the contractual clauses allowing Apple to charge such fees are abusive under article 1437 of the CCQ?
- h) Is the clause concerning a one-year warranty in Apple's terms and conditions null, entitling Class and Sub-Class Members to a full reimbursement of the amounts paid to replace their defective batteries in Apple Products after the initial one-year period?
- i) Should an injunctive remedy be ordered to prohibit Apple from continuing to perpetrate its unfair, false, misleading, and/or deceptive conduct, as well as its concealment of important facts?
- j) Is Apple responsible to pay compensatory, moral and/or punitive damages to Class and Sub-Class Members and in which amount?

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

GRANT Plaintiff's action against Defendants on behalf of all the Class and Sub-Class Members;

DECLARE the Defendants liable for the damages suffered by the Applicant and each of the Class and Sub-Class Members;

DECLARE that the fees charged by Defendants for their extended warranties amount to exploitation under section 8 of the CPA;

DECLARE that the fees charged by the Defendants for their extended warranties are excessively and unreasonably detrimental to consumers or

adhering parties and are therefore not in good faith under article 1437 of the *CCQ*;

DECLARE abusive, null and in violation of public order the clause concerning a one-year warranty in the Defendants' terms and conditions;

ORDER the Defendants to cease from continuing their unfair, false, misleading, and/or deceptive conduct, as well as their concealment of important facts;

DECLARE that the legal warranty for Apple Products under section 38 of the *CPA* last for a period of at least six years;

CONDEMN the Defendants to pay to each Class and Sub-Class Member compensatory damages, in an amount to be determined, and **ORDER** collective recovery of these sums;

CONDEMN the Defendants to pay to each Class and Sub-Class Member the sum of \$300.00 on account of punitive damages, and **ORDER** collective recovery of these sums;

CONDEMN the Defendants to pay interest and the additional indemnity on the above sums according to law from the date of service of the Application to Authorize a Class Action;

ORDER the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class and Sub-Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendants to bear the costs of the present action at all levels, including the cost of all exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

RENDER any other order that this Honourable Court shall determine;

DECLARE that all members of the Class and Sub-Class that have not requested their exclusion, be bound by any judgement to be rendered on the class action to be instituted in the manner provided for by the law;

FIX the delay of exclusion at thirty (30) days from the date of the publication of the notice to the members, date upon which the members of the Class and Sub-Class that

have not exercised their means of exclusion will be bound by any judgement to be rendered herein;

ORDER the publication of a notice to the members of the Class and Sub-Class in accordance with article 579 C.C.P. within sixty (60) days from the judgement to be rendered herein in the "News" sections of the Saturday editions of Le Journal de Montréal and the MONTREAL GAZETTE;

ORDER that said notice be published on the Defendants' various websites, Facebook pages and Twitter accounts, in a conspicuous place, with a link stating "Notice to Quebec Consumers";


ORDER the Defendants to send an Abbreviated Notice by e-mail to each Class and Sub-Class Member, to their last known e-mail address, with the subject line "Notice of a Class Action";

ORDER the Defendants and their representatives to supply class counsel, within thirty (30) days of the judgment rendered herein, all lists in their possession or under their control permitting to identify Class and Sub-Class Members, including their names, addresses, phone numbers and email addresses;

RENDER any other order that this Honourable Court shall determine;

THE WHOLE with costs including publication fees.

Montréal, December 29th, 2017



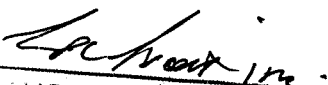
LPC AVOCAT INC.
Co-Counsel for Applicant

Montréal, December 29th, 2017



RENNO VATHILAKIS INC.
Co-Counsel for Applicant

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LPC AVOCAT INC.

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 the Status of Representative Plaintiff in the office of the Superior Court in the judicial district of **Montreal**.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of **Montreal** situated at **1 Rue Notre-Dame E, Montréal, Quebec, 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 plaintiff.

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 the Status of Representative Plaintiff, the Applicant intends to use the following exhibits:

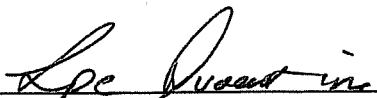
- Exhibit P-1:** Copy of support article published by Apple on its website on December 28th, 2017 titled *"iPhone Battery and Performance - Understand iPhone performance and its relation to your battery"*;
- Exhibit P-2:** Apple webpage titled *"Battery Service and Recycling"*;
- Exhibit P-3:** Apple webpage titled *"Apple Products and Consumer Laws in the United Kingdom"*;
- Exhibit P-4:** Extract of the CIDREQ for Apple Canada Inc.;
- Exhibit P-5:** Copy of Applicant's proof of purchase for iPhone 6+;
- Exhibit P-6:** Copy of Apple's notice to consumers dated December 28th, 2017, titled *"A Message to Our Customers about iPhone Batteries and Performance"*;

These exhibits are available on 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.

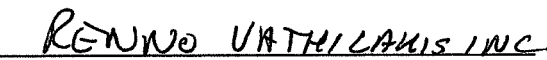
Montréal, December 29th, 2017



LPC AVOCAT INC.

Co-Counsel for Applicant

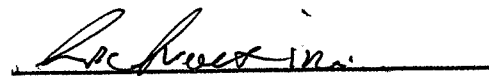
Montréal, December 29th, 2017



RENNO VATHILAKIS INC.

Co-Counsel for Applicant

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LPC AVOCAT INC.

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

TO: APPLE CANADA INC.
1600-120 Bremner Boulevard,
Toronto, Ontario, M5J 0A8

Defendant


APPLE INC.
1 Infinite Loop,
Cupertino, California, 95014, USA

Defendant

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

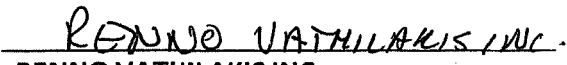
GOVERN YOURSELVES ACCORDINGLY.

Montréal, December 29th, 2017



LPC AVOCAT INC.
Co-Counsel for Applicant

Montréal, December 29th, 2017



RENNO VATHILAKIS INC.
Co-Counsel for Applicant

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LPC AVOCAT INC.

N^o 500-06-000897-179

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

RAPHAEL BADAQUI

Applicant

-vs-

APPLE CANADA INC., legal person having its head office at 1600-120 Bremner Boulevard, Toronto Province of Ontario, M5J 0A8

and

APPLE INC., legal person having its head office at 1 Infinite Loop, Cupertino, California, 95014, United States of America

Defendants

APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF (ARTICLES 571 AND FOLLOWING C.C.P)

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action collective

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