

CANADA

SUPERIOR COURT

(Class Action Chambers)

PROVINCE OF QUEBEC

DISTRICT OF MONTREAL

NICHOLAS PAPADATOS, residing and
domiciled at _____

No:

Applicant

v.

FACEBOOK, INC., legal person, having
its principal place of business at 1
Hacker Way, Menlo Park, California,
94025, USA

Defendant

APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO
OBTAIN THE STATUS OF REPRESENTATIVE
(ART 574 C.C.P. AND FOLLOWING)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN
THE CLASS ACTION CHAMBERS IN THE DISTRICT OF MONTREAL, YOUR
APPLICANT STATES AS FOLLOWS:

I. GENERAL PRESENTATION

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

*"All persons residing in Québec who used Facebook ("**Class Members**"), or any other group to be determined by the Court, between 2007 and 2018 ("**Class Period**")"*.

A. Overview

2. Between at least 2007 and 2018, Facebook, Inc. ("**Facebook**") secretly gave major device manufacturers access to users' personal information, without users' knowledge or consent. Even when users had disabled third-party access to their

private data, Facebook enabled device manufacturers to access that information for their own benefit. Through approximately 60 data-sharing agreements, Facebook disclosed and commercialised users' data and profited from that conduct. The device manufacturers, which included Apple, Amazon, BlackBerry, Huawei, Lenovo, Oppo, Samsung, TCL and others, willingly participated in this conspiracy. The Defendant's wrongful acts violated the provisions of *An Act Respecting the Protection of Personal Information in the Private Sector*, the *Consumer Protection Act*, the *Civil Code of Québec* and the *Québec Charter of Human Rights and Freedoms* and unjustly enriched it at the expense of users. Through this suit, Québec users seek to hold Facebook accountable for this unlawful conduct.

B. The Parties

3. The Defendant, Facebook, Inc., is a Delaware company with its principal place of business at 1 Hacker Way, Menlo Park, CA 94025 United States, the whole as appears from a copy of the corporate search results disclosed, *en liasse*, as **Exhibit P-1**. Facebook carries on business worldwide, including in Québec and Canada, and has a registered agent for service at Corporation Service Company 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833-3505 USA.
4. The Applicant, Nicholas Papadatos, is a resident of [REDACTED]. At all material times, the Applicant had a Facebook account and accessed Facebook on his internet-enabled devices.

C. Facebook

5. Facebook operates a social networking website at www.facebook.com. Facebook is the world's leading social networking platform. At the time this application is filed, Facebook had approximately 2.2 billion monthly active users, including tens of millions in Canada and millions in Québec, the whole as appears from an excerpt of Facebook's website regarding its company info and an infographic issued by Facebook, disclosed *en liasse* as **Exhibit P-2**.
6. After registering with Facebook, users can create a customised profile indicating *inter alia* their name, occupation, interests and schools attended. Users can add other users as "friends," exchange messages, post status updates, read current events in a "News Feed", share photos, videos, and links, use various software applications, and receive notifications of other users' activity on the Facebook platform. Additionally, users may join common-interest user groups organized by workplace, school, hobbies or other topics.

7. A critical element of Facebook is the connection between friends. A user has a network of friends with whom they have direct, deliberate connections. Outside this defined circle are friends of friends, and true strangers, with whom users have no direct, purposeful connections. Such persons do not usually have access to user's non-public information, beyond their name, profile picture and other strictly delimited information.
8. As a core component of its business, Facebook collects and compiles data from its users. Facebook does so by offering free services, in exchange for the collection of user data. Facebook then monetises user data by selling advertising space on its platforms and services. Advertisers are enticed to place ads with Facebook due to its ability to target specific demographics and interest groups through the company's collection and manipulation of user data.
9. The Facebook platform may be accessed by users on a range of devices with internet connectivity. Users can access the Facebook platform by visiting the website www.facebook.com using their web browser on their device. Alternatively, users can access the Facebook platform through apps developed by Facebook.

D. Internet-Enabled Devices

10. Since the early 2000s, a wide variety of devices with internet connectivity have become available to consumers. Internet-enabled devices include desktops, laptops, tablet computers, game consoles and smartphones ("**Devices**").
11. These Devices are or have been manufactured by companies including but not limited to Apple, Amazon, BlackBerry, HTC, Huawei, Lenovo, Oppo, Samsung, and TCL ("**Device Manufacturers**").

E. Unauthorised Sharing of Personal Information by Facebook

12. Beginning at least as early as 2007, and continuing until about 2018, Facebook entered into a series of approximately 60 bilateral agreements with each of the Device Manufacturers to permit them to access its users' personal information ("**Data-Sharing Agreements**").
13. The personal information shared by Facebook with the Device Manufacturers under the Data-Sharing Agreements included user names, contacts and friends, "liked" content, messages and photographs, as well as users' relationship status, religion, political leaning and upcoming events, among other data ("**Personal Information**").
14. Most importantly, the Personal Information shared by Facebook with the Device Manufacturers included Personal Information belonging to users' friends, who had

no relationship with the Device Manufacturers that were accessing their Personal Information. Since the core feature of Facebook is connecting friends, everyone on the service is someone else's friend. Accordingly, everyone's data was being accessed by their friends' – or friends of friends' – Device Manufacturers. The Data-Sharing Agreements affected all Facebook users, including the Applicant and Class Members.

15. The particulars of the Data-Sharing Agreements are well known to Facebook. The terms included *inter alia*:

- a. The agreements allowed the Device Manufacturers to offer some Facebook features, such as address books, friend lists, "like" button, messages, notifications, photo sharing and status updates. Ostensibly, the Data-Sharing Agreements enabled better performance before the Facebook apps worked well on smartphones. However, the Data-Sharing Agreements were kept in place long after Facebook apps worked well as standalone programs.
- b. Facebook gave the Device Manufacturers access to the Personal Information outside the Facebook apps, through the specific hardware and software interfaces of Devices manufactured by the Device Manufacturers. For example, some devices had programs that showed Facebook messages in a social "hub" along with other messages. Others integrated Facebook status updates and friend information into the device's own news feed. In some cases, the device pulled Facebook data into its own address book. In non-technical terms, the sharing of the Personal Information was happening behind the scenes, hidden from users.
- c. Access was enabled through application programming interfaces ("**APIs**") made available specifically to Device Manufacturers by Facebook. While Facebook is publicly known to make APIs available to third-party app developers to access its data, these secret APIs for Device Manufacturers were not known to users or the public. For several years, users have been able to control data shared with third-party apps through APIs; this was not the case with these secret Device Manufacturers APIs.
- d. Facebook allowed Device Manufacturers to override privacy settings in Facebook and on Facebook apps to continue accessing data, even if a user had blocked third-party apps from accessing his or her data.
- e. Some Device Manufacturers accessed the Personal Information directly from users' Devices, while others stored it on their own or third-party servers.

16. Although the Data-Sharing Agreements were bilateral, between an individual Device Manufacturer and Facebook, the substance of the arrangements was essentially the same in each instance.
17. At no time did users provide informed or any meaningful consent or permission to the disclosure and use of their Personal Information under the Data-Sharing Agreements. In fact, Facebook deliberately chose to obscure from users that it was sharing their Personal Information with the Device Manufacturers. Facebook did so to avoid asking users for specific, informed permission to access and collect their Personal Information. Users could not opt out of having their Personal Information shared by Facebook with the Device Manufacturers. Moreover, users did not consent to the sharing of their Personal Information by *friends or friends of friends* with Device Manufacturers with whom they had no relationship whatsoever.
18. The Applicant accessed Facebook on Devices at all material times up to and including 2018. The Applicant did not consent to the collection, sharing, use or retention of his Personal Information by Facebook.
19. The decision by Facebook to share the Personal Information with the Device Manufacturers was planned and deliberate and was made knowing that users had not consented to, and were not aware of, its collection.
20. The sharing of Personal Information by Facebook with the Device Manufacturers was unauthorised. Users did not consent to the sharing of Personal Information by Facebook with the Device Manufacturers. Users could not specifically disable the sharing of their Personal Information by Facebook with the Device Manufacturers, even if they had been aware of it. Consumers had no notice that Facebook was sharing their Personal Information with the Device Manufacturers.
21. Facebook shared the Personal Information with the Device Manufacturers for its own benefit.
22. As a result of the unauthorised sharing of the Personal Information, the Applicant and Class Members have been deprived by suffering a loss, inconvenience and anxiety and violation of privacy.
23. As a result of the unauthorised sharing of the Personal Information, Facebook has been enriched by:
 - a. selling or licensing the Personal Information to the Device Manufacturers;
 - b. increasing its market share and value, by making Facebook available on additional platforms;

- c. advancing its own research and development agenda, turning users into unwitting test subjects, to profit its own commercial interests.

Sharing the Personal Information with the Device Manufacturers was in Facebook's economic interest and provided it with a competitive advantage in the marketplace.

24. Facebook paid the Device Manufacturers to use the APIs and access the Personal Information. In the alternative, the Device Manufacturers paid Facebook to use the APIs and access the Personal Information.

25. The existence of the Data-Sharing Agreements and the Defendant's wrongdoing became public on about June 3, 2018, when the *New York Times* released a story about it, a copy of which is disclosed as **Exhibit P-3**, which referenced certain responses given by Facebook to German legislators in April 2018, which responses are disclosed as **Exhibit P-4**.

26. In response to press inquiries, Facebook and a number of the Device Manufacturers have admitted to sharing Personal Information under the Data-Sharing Agreements, as appears from copies of various news articles and a Facebook press release, disclosed, *en liasse*, as **Exhibit P-5**.

27. As a consequence of the Data-Sharing Agreements and the misuse of Personal Information by Facebook under those arrangements, the Applicant and Class Members were more vulnerable to illegal hacking, identity theft and related crimes. Facebook was reckless or willfully blind to the ways in which its conduct increased those risks.

F. The 2011 FTC Consent Decree

28. Facebook considers itself subject to the law and jurisdiction of the United States and purports to operate its business in compliance with American law, including with respect to users in Canada.

29. In 2011, the United States Federal Trade Commission ("**FTC**") initiated a complaint against Facebook regarding its collection and storage of users' Personal Information, as appears from a copy of the complaint and its exhibits disclosed *en liasse* as **Exhibit P-6**. The FTC alleged that Facebook's privacy settings were deceptive *inter alia* because they did not disclose that a user's choice to restrict profile information was ineffective as to certain parties. Although Facebook purported to permit users to restrict disclosure of their Personal Information to friends or friends of friends, this was not true. Specifically, Facebook made Personal Information available to third-party apps a user's *friends* had used. The FTC alleged

that Facebook had violated the *Federal Trade Commission Act*, 15 U.S. Code. c. 2, subchapter I.

30. In 2012, Facebook entered into a Consent Decree with the FTC to resolve the proceedings (“**Consent Decree**”), disclosed as **Exhibit P-7**. The Consent Decree provided *inter alia* that Facebook could not override users’ privacy settings without first getting explicit consent. Accordingly, from 2012 onwards, Facebook was required to obtain meaningful, informed and explicit consent before allowing users’ Personal Information to be shared with third-parties, including the Device Manufacturers and this for all users, including users in Canada.
31. In April 2014, Facebook began to eliminate third-party apps’ access to users’ data under the “friend of a friend” mechanism. This process was supposed to be completed by May 2015. Facebook made public statements of fact to this effect, as appears from copies of various news articles and a Facebook press release, disclosed, *en liasse*, as **Exhibit P-8**.
32. In breach of the Consent Decree, the *Federal Trade Commission Act*, and contrary to its public statements, Facebook continued to give the Device Manufacturers access to users’ Personal Information until 2018. In particular, Facebook continued to give the Device Manufacturers access to users’ Personal Information through their friends’ devices until at least 2018. In 2018, the FTC began investigating Facebook about whether it had breached the Consent Decree, as appears from the Statement by the Acting Director of FTC’s Bureau of Consumer Protection, disclosed as **Exhibit P-9**.

G. Ongoing Conduct

33. At the time this application is filed, the wrongdoing continues. In April 2018, Facebook began winding down its Data-Sharing Agreements as a result of the scrutiny arising from the *Cambridge Analytica* scandal, as appears from a copy of a Developer News article dated April 24, 2018, disclosed as **Exhibit P-10**. However, the Applicant has reason to believe that some of the agreements are still in force.

H. The Defendant’s Liability

Breach of obligations stemming from of An Act Respecting the Protection of Personal Information in the Private Sector and the Civil Code of Québec

34. The information provided by the Class Members and collected, shared and used by the Defendant is « personal information » as provided for by *An Act Respecting the Protection of Personal Information in the Private Sector*.

35. The Defendant was therefore subject to the obligations provided for in said legislation relative to the protection, collection, retention, use and dissemination of the Personal Information of its users and thus had the obligation to protect, and not to share and misuse, said Personal Information.
36. The Defendant Facebook breached its obligations in failing to protect the Applicant and Class Members' Personal Information and sharing said Personal Information with the Device Manufacturers without the Applicant and Class Members' consent and without ever disclosing its actions to them.
37. More particularly, Facebook breached articles 6, 10 and 13, 14 and 17 of *An Act Respecting the Protection of Personal Information in the Private Sector*.
38. Moreover, in sharing, collecting, storing and using the Applicant and Class Members' Personal Information without their consent and for purposes inconsistent with the purposes for which said information was provided, the Defendant breached its obligations under articles 35 to 37 of the *Civil Code of Québec*.
39. As a result of the aforementioned breaches by the Defendant, the Applicant and Class Members are entitled to damages.

Breach of obligations under the Consumer Protection Act

40. Through its actions as set out above, Facebook breached the *Consumer Protection Act*.
41. The Defendant breached article 219 of the *Consumer Protection Act* by making false or misleading representations to the Applicant and Class Members with regard to the collection, retention and use of their Personal Information as well as regarding the protection which would be given to said information and by omitting to divulge important information regarding the safety and use of their Personal Information.
42. Said conduct warrants the award of punitive damages under article 272 of the *Consumer Protection Act*.

Breaches of obligations under the Québec Charter of Rights and Freedoms

43. The Defendant's conduct, as set out above, also breached the Applicant and Class Members' right to respect for their private lives as guaranteed by article 5 of the *Québec Charter of Rights and Freedoms*.
44. The Defendant Facebook made available its users' Personal Information to the Device Manufacturers without its users' consent and intentionally omitted to divulge its actions to its users.

45. The Defendant chose to put its interests before the interests of the Applicant and the Class Members. The Defendant showed a blatant disregard of its rights and of the Applicant and Class Members' rights.
46. It was not the Defendant but rather a third-party publication that divulged the Defendant's misconduct to the Applicant and the Class Members.
47. This unlawful and intentional interference with its users' rights warrants an award of punitive damages under article 49 of the Québec *Charter of Human Rights and Freedoms*.

Punitive Damages

48. As stated above, the Applicant is justified in requesting punitive damages in light of the Defendant's oppressive and high-handed conduct which departed to a marked degree from ordinary standards of decent behaviour and violated the trust and security of its users.
49. The Defendant's actions constitute a willful disregard of its users' privacy, autonomy and rights and a violation of its obligations and as such, warrant an award of punitive damages under the *Consumer Protection Act* and the Québec *Charter of Human Rights and Freedoms*.

Unjust Enrichment

50. By its conduct set out above, Facebook has been enriched by the unauthorised sharing of the Applicant and Class Members' Personal Information. Facebook has profited from the commercialisation and use of the Applicant and Class Members' Personal Information. In particular, Facebook has been enriched by, *inter alia*, increasing its market share and advancing its research with, as well as selling and/or licensing and commercializing, the Personal Information.
51. As set out above, the Applicant and Class Members have been deprived through the loss of their reasonable expectation of privacy and the taking of private data about them. As such, there is a correlation between the Defendant's enrichment and the Applicant and Class Members' impoverishment.
52. There is no justification as to why the Defendant should have received or should retain this benefit. The unauthorised sharing by Facebook of the Personal Information was in violation of the applicable statutes as set forth above, as well as of the *Criminal Code*, and the United States *Federal Trade Commission Act* and the Consent Decree.
53. In particular, the Personal Information which was shared by the Defendant falls within the definition of "identity information" under the *Criminal Code*, s 402.1. Through its unauthorised sharing, collection, retention, and use of the Personal Information, the Defendant was reckless or wilfully blind to the ways in which its

conduct increased the risks of illegal hacking, identity theft and related crimes and as such these actions and omissions constitute trafficking in identity information within the meaning of the *Criminal Code*, s 402.2(2) or, at a minimum, an attempt to do same, within the meaning of the *Criminal Code*, s 463. In addition, or in the alternative, the unauthorised sharing, collection, retention and use by Facebook of the Personal Information constitutes false pretences within the meaning of the *Criminal Code*, s 362.

54. The violations by the Defendant render void or unenforceable any alleged reason for its enrichment and thereby negate any justification why it should have received or should retain the benefit of its wrongdoing.
55. As a result, the Defendant has been unjustly enriched by the benefits it received from the Applicant and the Class Members. This warrants an order that the Defendant disgorge all profits that it gained in benefitting from the breaches set out above.

II. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE APPLICANT

56. The facts on which the Applicant's personal claim against the Defendant is based, are as follows:
 - a. The Applicant is an Investment Representative.
 - b. The Applicant joined Facebook on January 8, 2007, as appears from a printout of his Facebook registration profile, disclosed as **Exhibit P-11**. Since the date he joined Facebook, he has accessed and used his Facebook account on his Internet-enabled devices, namely on his laptop and smartphone. He currently accesses and uses his Facebook account from his Dell laptop and Google Pixel 2 smartphone which he has had since approximately August 2017 and January 2018 respectively. The Applicant also used Facebook from the Internet-enabled devices he previously owned during the Class Period.
 - c. Throughout the period of time that the Applicant has been using Facebook and Facebook apps on his devices, Facebook has been sharing and disclosing his Personal Information, without his knowledge and consent.
 - d. As Facebook never disclosed that it was sharing users' Personal Information with the Device Manufacturers, the Applicant did not and could not know, and had no reason to believe, that his Personal Information, as well as his friends and friends' of friends Personal Information, was being unlawfully shared and used.
 - e. Had the Applicant known that Facebook had a practice of sharing users' Personal Information without their consent, the Applicant would not have used

Facebook on his internet-enabled devices or would have done so on different terms.

- f. The Applicant was within his rights to believe that Facebook would protect his Personal Information and this in accordance with its legal obligations in this regard.
- g. Although the Applicant never consented to Facebook sharing his Personal Information with the Device Manufacturers, upon information and belief, Facebook did so and then profited from the Personal Information collected from him and other Class Members, as set out above.
- h. As a result of the Defendant's conduct, the Applicant suffered damages, including monetary losses, inconvenience and anxiety.

57. The Applicant's damages are a direct result of the Defendant's conduct.

58. In consequence of the foregoing, the Applicant is justified in claiming damages.

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

59. The facts giving rise to personal claims by each of the members of the class against the Defendant are as follows:

- a. Every member of the Class has used Facebook on an internet-enabled device;
- b. Class Members' privacy was violated by the Defendant's unlawful, unfair, abusive and/or misleading acts and practices and intentional and malicious conduct;
- c. Class Members were not aware of that the Defendant shared their Personal Information and this without their consent;
- d. Class Members each suffered damages, including monetary losses and inconvenience and anxiety;
- e. In consequence of the foregoing, each member of the Class is justified in claiming compensatory, moral and/punitive damages;

60. The damages to the Class Members are a direct result of the Defendant's conduct.

IV. CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

A. The composition of the Class makes it difficult or impracticable to apply the rules for mandates to sue on behalf of others or for consolidation of proceedings

61. The Applicant is not privy to the specific number of persons in Québec who used Facebook on Devices, and whose privacy was violated by Facebook. However, it is safe to estimate that the Class is at least in the millions. Further, Facebook's electronic databases could easily establish the number of Class Members and even all of those Class Members' exact coordinates.
62. Class Members are numerous and are scattered across the entire province.
63. 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 Defendant. Even if the Class Members themselves could afford such individual litigation, it would place an unjustifiable burden on the courts and, at the very least, is not in the interests of judicial economy. Furthermore, individual litigation of the factual and legal issues raised by the conduct of the Defendant would increase delay and expense to all parties and to the court system.
64. By their very nature, systematised privacy breaches (data harvesting) affect many individuals and any discrepancies tend to be quite small – if it were not for the class action mechanism which facilitates access to justice, these types of claims would never be heard.
65. It is expected that the majority of Class Members have suffered small losses making it economically unfeasible to finance the litigation expenses inherent in any legal proceeding.
66. This class action overcomes the dilemma inherent in an individual action whereby the legal fees alone would deter recovery and thereby in empowering the consumer, it realizes both individual and social justice as well as rectifies the imbalance and restores the parties to parity.
67. Also, a multitude of actions instituted in either the same or different judicial districts, risks having contradictory judgments on questions of fact and law that are similar or related to all members of the Class.
68. 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 together into one action.

69. In these circumstances, a class action is the only appropriate procedure and the only viable means for all the members of the Class to effectively pursue their respective legal rights and have access to justice.

B. The claims of the members of the Class raise identical, similar or related issues of law or fact

70. Individual issues, if any, pale by comparison to the numerous common issues that are significant to the outcome of the litigation.

71. The damages sustained by the Class Members flow, in each instance, from a common nucleus of operative facts, namely, the Defendant's misconduct.

72. The claims of the members raise identical, similar or related issues of fact or law, namely:

- a. Did the Defendant enter into Data-Sharing Agreements with the Device Manufacturers?
- b. Were these Data-Sharing Agreements and their respective terms disclosed to the Applicant and Class Members?
- c. By way of these Data-Sharing Agreements, did the Defendant share the Applicant and Class Members' Personal Information without their consent?
- d. Did the Defendant fail to protect and safeguard the Applicant and Class Members' Personal Information?
- e. In so doing, was Facebook unjustly enriched and if so, should it disgorge its profits?
- f. In so doing, did Facebook breach its obligations towards the Applicant and Class Members under the *Federal Trade Commission Act* and the Consent Decree?
- g. In so doing, did Facebook breach its obligations towards the Applicant and Class Members and this under the *Consumer Protection Act*, the *Civil Code of Québec*, *An Act Respecting the Protection of Personal Information in the Private Sector* and/or the *Québec Charter of Human Rights and Freedoms*?
- h. As a result, did the Applicant and Class Members suffer damages and what is the nature of such damages?
- i. Is Facebook liable to pay damages to the Applicant and Class Members, including monetary losses incurred, inconvenience, anxiety and other moral and/or punitive damages?

- j. In the affirmative, what is the amount of damages to be paid to the Applicant and Class Members?

V. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

73. The action that the Applicant wishes to institute on behalf of the members of the Class is an action in damages and injunctive relief.

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

- a. **GRANT** the class action of the Applicant and each of the members of the Class;
- b. **ORDER** the Defendant to cease from continuing its unlawful, unfair, anti-competitive and/or misleading conduct;
- c. **CONDEMN** the Defendant to pay to each of the members of the Class a sum to be determined in compensation of the damages suffered, and **ORDER** collective recovery of those sums;
- d. **CONDEMN** the Defendant to pay to each of the members of the Class punitive damages, in an amount to be determined by the Court, and **ORDER** collective recovery of those sums;
- e. **CONDEMN** the Defendant to pay interest and the additional indemnity on the above sums according to the law from the date of service of the application to authorize a class action;
- f. **ORDER** the Defendant to deposit in the office of this Court the totality of the sums which form part of the collective recovery, with interest and costs;
- g. **ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and, alternately, by individual liquidation;
- h. **CONDEMN** the Defendant to bear the costs of the present action including expert and notice fees;
- i. **RENDER** any other order that this Honourable Court shall determine and that is in the interests of the members of the Class;

A. The Applicant requests that he be attributed the status of representative of the Class

75. The Applicant is a member of the Class.

76. The Applicant is ready and available to manage and direct the present action in the interest of the members of the Class that he wishes to represent and is determined to lead the present action until a final resolution of the matter, the whole for the benefit of the Class, as well as, to dedicate the time necessary for the present action before the Courts and the Fonds d'aide aux actions collectives, as the case may be, and to collaborate with his attorneys.
77. The Applicant has the capacity and interest to fairly, properly and adequately protect and represent the interest of the members of the Class.
78. The Applicant has given the mandate to his attorneys to obtain all relevant information with respect to the present action and intends to keep informed of all developments.
79. The Applicant, with the assistance of his attorneys, is 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.
80. The Applicant has given instructions to his attorneys to put information about this class action on its website and to collect the coordinates of those Class Members that wish to be kept informed and participate in any resolution of the present matter, the whole as will be shown at the hearing.
81. The Applicant is in good faith and has instituted this action for the sole goal of having his rights, as well as the rights of other Class Members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of the Defendant's conduct.
82. The Applicant understands the nature of the action.
83. The Applicant's interests do not conflict with the interests of other Class Members and further the Applicant has no interest that is antagonistic to those of other members of the Class.
84. The Applicant is prepared to be examined out-of-court on his allegations (as may be authorized by the Court) and to be present for Court hearings, as may be required and necessary.
85. The Applicant has spent time researching this issue on the internet and meeting with his attorneys to prepare this file. In so doing, he is convinced that the problem is widespread.

B. The Applicant suggests that this class action be exercised before the Superior Court in the district of Montréal

86. A great number of the members of the Class reside in the judicial district of Montréal.
87. The Applicant's attorneys practice their profession in the judicial district of Montréal.

88. The present application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present application;

AUTHORIZE the bringing of a class action in the form of an application to institute proceedings in damages and injunctive relief;

DESIGNATE the Applicant, Nicholas Papadatos, as representative of the persons included in the Class herein described as:

“All persons residing in Québec who used Facebook between 2007 and 2018.”

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

- a. Did the Defendant enter into Data-Sharing Agreements with the Device Manufacturers?
- b. Were these Data-Sharing Agreements and their respective terms disclosed to the Applicant and Class Members?
- c. By way of these Data-Sharing Agreements, did the Defendant share the Applicant and Class Members' Personal Information without their consent?
- d. Did the Defendant fail to protect and safeguard the Applicant and Class Members' Personal Information?
- e. In so doing, was Facebook unjustly enriched and if so, should it disgorge its profits?
- f. In so doing, did Facebook breach its obligations towards the Applicant and Class Members under the *Federal Trade Commission Act* and the Consent Decree?
- g. In so doing, did Facebook breach its obligations towards the Applicant and Class Members and this under the *Consumer Protection Act*, the *Civil Code of Québec*, *An Act Respecting the Protection of Personal Information in the Private Sector* and/or the *Québec Charter of Human Rights and Freedoms*?
- h. As a result, did the Applicant and Class Members suffer damages and what is the nature of such damages?

- i. Is Facebook liable to pay damages to the Applicant and Class Members, including monetary losses incurred, inconvenience, anxiety and other moral and/or punitive damages?
- j. In the affirmative, what is the amount of damages to be paid to the Applicant and Class Members?

The interests of justice favour that this application be granted in accordance with its conclusions;

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

- **GRANT** the class action of the Applicant and each of the members of the Class;
- **ORDER** the Defendant to cease from continuing its unlawful, unfair, anti-competitive and/or misleading conduct;
- **CONDEMN** the Defendant to pay to each of the members of the Class a sum to be determined in compensation of the damages suffered, and **ORDER** collective recovery of those sums;
- **CONDEMN** the Defendant to pay to each of the members of the Class punitive damages, in an amount to be determined by the Court, and **ORDER** collective recovery of those sums;
- **CONDEMN** the Defendant to pay interest and additional indemnity on the above sums according to the law from the date of service of the application to authorize a class action;
- **ORDER** the Defendant to deposit in the office of this Court the totality of the sums which form part of the collective recovery, with interest and costs;
- **ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and, alternately, by individual liquidation;
- **CONDEMN** the Defendant to bear the costs of the present action including expert and notice fees;
- **RENDER** any other order that this Honourable Court shall determine and that is in the interests of the members of the Class;

DECLARE that all members of the Class that have not requested their exclusion from the Class within the prescribed delay, be bound by any judgment 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 Class Members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgment to be rendered herein;

ORDER the publication of a notice to the members of the Class in accordance with articles 576 and 579 C.C.P. within sixty (60) days from the judgment to be rendered herein in *La Presse*, the *Montreal Gazette* and *Le Soleil*;

ORDER that said notice be sent directly to all Class Members through the use of the Defendant's customer database, as well as posting the said notice on the Defendant's website and twitter account with a link stating "Notice to persons who have used Facebook on internet-enabled devices between 2007 and 2018";

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 costs, including all publication fees.

Montréal, December 21, 2018

Klein Avocats Plaideurs Inc.
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Attorneys for the Applicant

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SUMMONS

(articles 145 and following C.C.P.)

Filing of a judicial application

Take notice that the applicant has filed this originating application in the office of the Superior Court in the judicial district of Montréal.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the Montréal courthouse situated at 1, Notre-Dame Est, Montréal, Québec, H2Y1B6 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 an applicant 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 applicant'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 originating application, the Applicant intends to use the following exhibits:

EXHIBIT P-1:	Corporate search results for Facebook, Inc. <i>en liasse</i>
EXHIBIT P-2:	Excerpt of Facebook's website regarding its company info and an infographic issued by Facebook <i>en liasse</i>
EXHIBIT P-3:	News article published by the New York Times
EXHIBIT P-4:	Responses given by Facebook to German legislators in April 2018
EXHIBIT P-5:	Copies of various news articles and a Facebook press release, <i>en liasse</i>
EXHIBIT P-6:	FTC Complaint 0923184, <i>In the Matter of Facebook, Inc.</i> Docket No. C-4365 (with exhibits) <i>en liasse</i>
EXHIBIT P-7:	FTC Decision and Order, <i>In the Matter of Facebook, Inc.</i> Docket No. C-4365
EXHIBIT P-8:	Copies of various news articles and a Facebook press release <i>en liasse</i>

EXHIBIT P-9:	Statement by the Acting Director of FTC's Bureau of Consumer Protection Regarding Reported Concerns about Facebook Privacy Practices
EXHIBIT P-10:	Developer News article dated April 24, 2018
EXHIBIT P-11:	Copy of the Applicant's Facebook registration profile

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.

CANADA

SUPERIOR COURT

(Class Action Chambers)

PROVINCE OF QUEBEC

DISTRICT OF MONTREAL

NICHOLAS PAPADATOS, residing and
domiciled at [REDACTED]

No:

Applicant

v.

FACEBOOK, INC., legal person, having
its principal place of business at 1
Hacker Way, Menlo Park, California,
94025, USA

Defendant

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

TO : Facebook, Inc., having its principal place of business at 1, Hacker Way,
Menlo Park California, 94025, USA
Defendant

TAKE NOTICE that the *Application for authorization to institute a class action and to obtain the status of representative* will be presented before one of the honourable judges of the Superior Court at the Montréal Courthouse located at 1, Notre-Dame Est, at a date and time to be determined by the Class Action Chambers coordinator.

GOVERN YOURSELF ACCORDINGLY.

Montréal, December 21, 2018

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CANADA

SUPERIOR COURT
(Class Action Chambers)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NICHOLAS PAPADATOS

No:

Applicant

v.

FACEBOOK, INC.

Defendant

ATTESTATION OF ENTRY IN THE NATIONAL CLASS ACTION REGISTER
(ART 55 of the *Regulation of the Superior Court of Québec in civil matters*)

The Applicant, through his attorneys, attests that the *Application for authorization to institute a class action and to obtain the status of representative* will be entered into the national class action register.

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