

**COUR SUPÉRIEURE**  
(Chambre des actions collectives)

CANADA  
PROVINCE DE QUÉBEC  
DISTRICT DE MONTRÉAL

N° : 500-06-001131-214

DATE : Le 03 octobre 2023

---

**SOUS LA PRÉSIDENTE DE : L'HONORABLE CHRISTIAN IMMER, J.C.S.**

---

**OPTION CONSOMMATEURS**  
Représentante

c.

**FLO HEALTH, INC.**  
Défenderesse

---

**JUGEMENT**

---

- [1] **ATTENDU** que la Défenderesse a transmis un fichier Excel contenant les dernières adresses courriel connues des utilisatrices et utilisateurs ayant un compte sur l'application Flo associé à une adresse IP susceptible de provenir d'un emplacement au Québec (ci-après la « **Liste** »), le tout tel que plus amplement détaillé dans la déclaration assermentée de M. Aleksandr Purtov (Pièce R-5);
- [2] **ATTENDU** que le 13 juillet 2023 la Demanderesse a produit un Avis de gestion de l'instance au dossier de la Cour afin de décider de la question des Avis d'autorisation d'exercer l'action collective (ci-après les « **Avis d'autorisation** »);
- [3] **ATTENDU** que depuis, les parties se sont entendues sur le contenu des Avis d'autorisation ainsi que sur les modes de diffusion des avis suivants, conformément à l'offre de service révisée de l'administrateur Proactio, jointe comme Annexe E-1 au présent jugement :

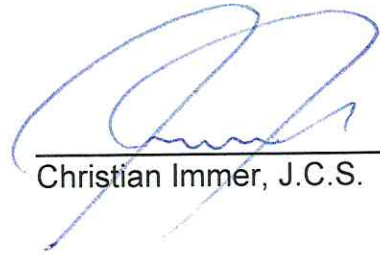
- i. La transmission d'un Avis d'autorisation par courriel en français ou en anglais, joint comme Annexe R-1 au présent jugement, aux quelque 84 000 adresses courriel apparaissant à la Liste;
- ii. La publication de bannières web en français et en anglais, jointes comme Annexe R-3 au présent jugement, sur Facebook pour une période de 25 jours.

- [4] **ATTENDU** que les Avocats de la Représentante publieront un Avis long en français et en anglais, joint comme Annexe R-2 au présent jugement, sur leur site Web et au Registre des actions collectives de la Cour supérieure et transmettront l'Avis d'autorisation par courriel (Annexe R-1) aux personnes qui se sont inscrites sur leur site Web.
- [5] **ATTENDU** qu'en conformité avec le jugement d'autorisation, les frais de publication des avis sont à la charge de la Défenderesse.
- [6] **CONSIDÉRANT** le jugement d'autorisation rendu le 30 novembre 2022, la Déclaration sous serment de Monsieur Aleksandr Purtov (pièce R-5) et l'offre de service de l'administrateur Proactio (Annexe E-1);
- [7] **CONSIDÉRANT** que la Défenderesse consent à la présente;

**POUR CES MOTIFS, LE TRIBUNAL :**

- [8] **APPROUVE** la forme et le fond des Avis d'autorisation d'une manière substantiellement similaire aux avis, joints comme Annexes R-1, R-2 et R-3 au présent jugement;
- [9] **FIXE** la date limite d'exclusion au 30e jour suivant la date de la première publication des Avis d'autorisation aux membres;
- [10] **NOMME** Proactio administrateur des avis;
- [11] **ORDONNE** la diffusion des Avis d'autorisation conformément à l'offre de service révisée de Proactio, jointe comme Annexe E-1 au présent jugement, aux frais de la Défenderesse, qui prévoit :
- i. La transmission d'un Avis d'autorisation par courriel en français ou en anglais (Annexe R-1), aux quelque 84 000 adresses courriel apparaissant à la Liste;
  - ii. La publication de bannières web en français et en anglais (Annexe R-3) sur Facebook pour une période de 25 jours.
- [12] **PREND ACTE** de l'engagement des avocats de la Représentante de publier l'Avis long en français et en anglais (Annexe R-2) sur leur site Web et au Registre des actions collectives de la Cour supérieure et de transmettre l'Avis d'autorisation par courriel en français ou en anglais (Annexe R-1) aux personnes qui se sont inscrites sur leur site Web;

[13] **LE TOUT**, sans frais de justice.



Christian Immer, J.C.S.

Me Maxime Nasr  
Me Marjorie Boyer  
**Belleau Lapointe s.e.n.c.r.l.**  
Avocats de la Représentante

Me Caroline Biron  
Me Anthony Cayer  
**Blake, Cassels & Graydon S.E.N.C.R.L./s.r.l.**  
Avocats de la Défenderesse

# Proposal

In the matter of *Option consommateurs v. Flo Health Inc.*  
(500-06-001131-214)

September 27, 2023

Presented to Maîtres Boyer and Nasr, *Belleau Lapointe s.e.n.c.r.l.*

## CONFIDENTIAL

Except with regard to the parties and the Court, please keep confidential all the information which will be communicated to you with the exception of that which is already public or that which must be revealed in the course of the class action proceedings.

**proactiō**

 A service of  
Raymond Chabot



# Why Choose Proactio

Proactio is supported by the Recovery and Reorganization group of Raymond Chabot Grant Thornton. This group has carried out mandates in personal and commercial insolvency, but more importantly, we have administered several settlements reached in the context of class actions. The growing number of class action mandates led us to set up a subsidiary, Proactio, offering a wide range of class action services to support lawyers practicing in this field.

With Proactio, you will benefit from the resources and experience of the Recovery and Reorganization group as well as our team's experience in class actions.

Beyond our experience and expertise, we believe that we are the ideal partner to fulfill the planning and deployment of a diffusion campaign because of our availability and our ability to adapt to your needs.

We would be delighted and proud to place the expertise and skills of our team at your disposal to lead the notice campaign.

## OUR SUCCESSFUL MANDATES

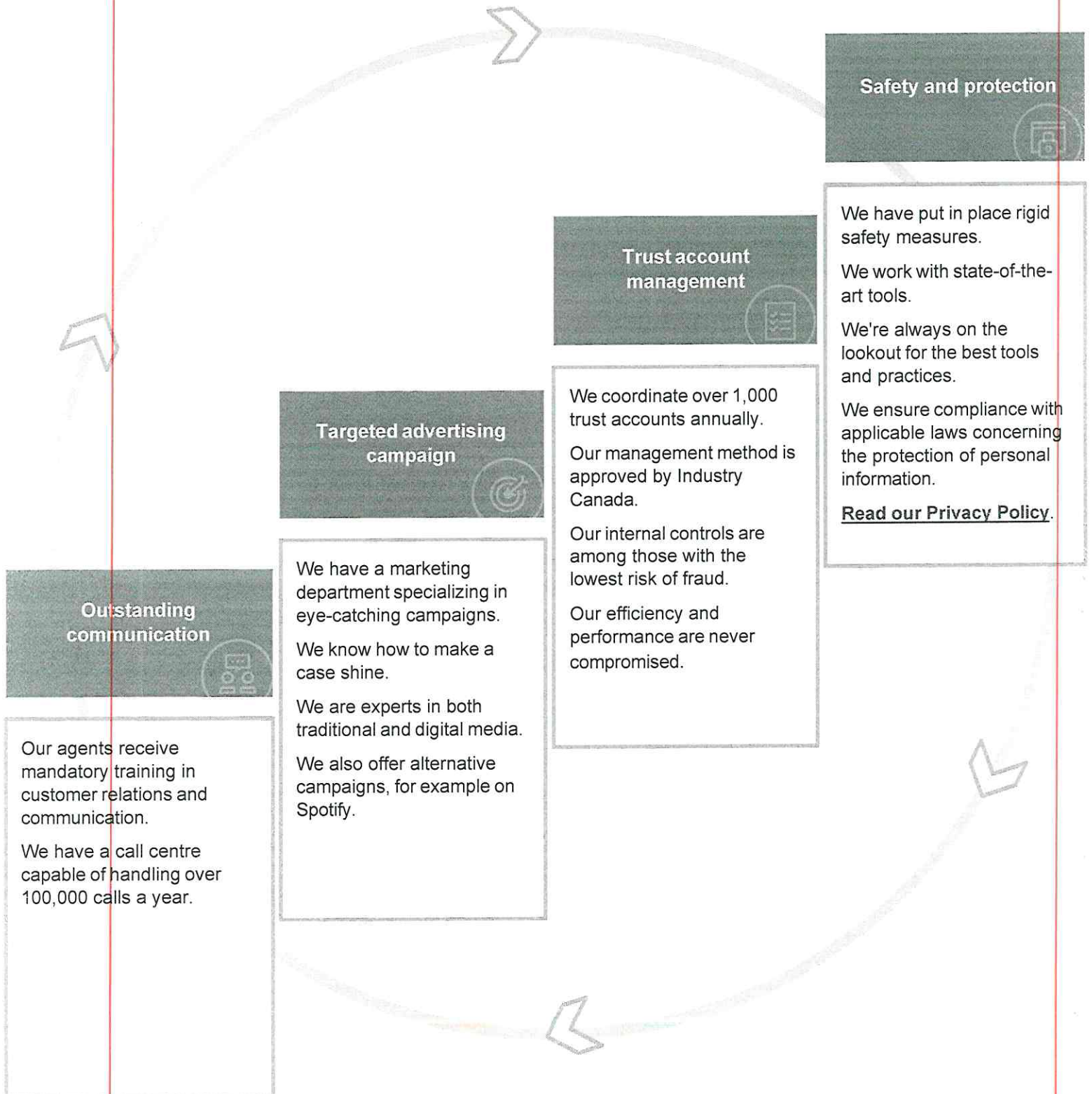
Our group has expertise in class actions, notably in the administration of claims and distribution protocols. In recent years, we have carried out a number of mandates involving the administration of claims and the distribution of compensation in class actions:

- *Ongoing*- Settlement providing compensation to persons unnecessarily strip searched in Rivières-des-Prairies and Bordeaux (500-06-000958-187);
- *Ongoing*- Settlement reached in the class action regarding the Floodings in Rosemont (500-06-000480-091);
- *Ongoing*- Settlement providing compensation to victims of TCE groundwater contamination in Shannon, Québec (200-09-007773-127);
- *Ongoing*- Settlement to compensate property owners, tenants and residents of the Saint-Georges district who suffered damages caused by emissions from Alcoa's Baie-Comeau aluminum smelter (655-06-000001-055);
- Toronto-Dominion Bank By-law (500-06-000625-125);
- Settlement with the Attorney General of Quebec for compensation to the "shipwrecked" on Highway 13 (500-06-000853-172);
- The settlement for the compensation of victims of red dust in Limoilou (200-06-000157-134).

A summary of the main projects carried out is provided in the Appendix.

## OUR EXPERTISES

We also have multidisciplinary teams of experts in their fields. We offer you efficient, personalized coordination of the best tools at our disposal.





## OUR COMMITMENT TO PROTECT PERSONAL INFORMATION

Proactio takes the protection of personal information seriously. We ensure the security and confidentiality of the information collected for the execution of our mandates.

We are up to date with the requirements set out in the *Act to modernize legislative provisions as regards the protection of personal information* (Law 25) and have, notably, published our privacy policy on the Proactio website.

Furthermore, we limit the personal information we collect to what we deem essential to fulfill our various mandates. We retain the personal information we have collected only as long as necessary to fulfill the purposes for which it was collected, or as permitted or required by law.

With Proactio, you can be assured of the proper use and legitimate treatment of personal information collected.

## OUR NETIQUETTE

We have a Netiquette in place which explains to class members, claimants or anyone commenting on Proactio's social media platforms the limits to the type of comments they can publish on our platforms. With our netiquette we ensure that conversations are conducted in a polite and civil manner.

The netiquette more specifically prohibits the use of any defamatory language directed towards the parties to the class action, class members or Proactio. The constant monitoring of our social media platforms protects the parties to the litigation and class members from defamatory language by hiding the problematic comments without notice to the person who has made such post.

Furthermore, in accordance with the Netiquette, we will delete all comments or publications containing personal or sensitive information from our social media platforms to protect the information of the person who has posted such content.

# Budget Proposal

## OUR UNDERSTANDING OF THE MANDATE

We hereby present you with this proposal for the design, creation, deployment, and management of the dissemination of the notices to class members following a judgment authorizing the institution of a class action in the name of the following members:

Any person residing in Quebec who has used the "Flo" menstrual cycle, ovulation and fertility tracking app offered by Flo Health Inc. between June 1, 2016 and February 23, 2019.

We understand that the definition of the group implies that the class members will mostly be women between the ages of 18 and 50 years old that are sufficiently tech-savvy to use an app to track their cycle.

You have indicated that you wish to disseminate the notice to class members notably through the following two means:

- 1) Direct noticing by emailing to the class members identified by the defendant on a list containing approximately 84,000 email addresses;
- 2) Indirect noticing through Facebook Ads for a period of 25 to 30 days.

You also wish to have suggestions on additional indirect notices which could reach class members and complement the email campaign and the Facebook Ads.

You have asked us to elaborate a campaign strategy and to detail the budget which would be entailed by such a campaign.

## EMAIL CAMPAIGN

We offer a complete solution to maximize the efficacy of the email campaign in this file for the flat-rate amount of \$5,750 which includes costs and fees.

We can increase the success of the direct notice campaign by, among other things, proposing adaptations of the notice to class members sent by email. We are very aware of phishing practices and the tell-tale signs of such practice. We are therefore able to modify the email content in order to comfort the recipient that the email is not a phishing attempt.

Part of this reassurance will also be provided by the page dedicated to the class action which we will publish on our website. This will reassure recipients by showing that Proactio is a legitimate company mandated in the file.



The email campaign will entail the following services:

- Review and suggestions to the content of the email;
- Tool for email marketing;
- Creation of an email address specific to the class action;
- Correcting and putting the list of emails provided by the defendant in the appropriate format (ex: changing “hotnail.com” or “hotmail.con” to “hotmail.com” or changing the file to CSV or txt);
- Up to 85,000 emails, including a second email in the case of soft bounces;
- Automatic response following the reception of an email responding to the campaign;
- Creation and publication of a page dedicated to the class action on the Proactio website;
- Reporting on the email campaign.

#### *Exclusion*

The aforementioned services exclude responding to emails from recipients of the email campaign. An automatic response will be drafted in a manner advising the sender to contact Belleau Lapointe for any questions and that this inbox does not receive messages. Updating the contact list for future notices or uses in the class action is also therefore excluded.

## **FACEBOOK ADS CAMPAIGN**

#### *Design and Deployment of the Campaign*

We are offering you a Facebook campaign for the flat-rate amount of \$5,900 which includes media placement and fees.

We propose a bilingual Facebook campaign via the Proactio account using geotargeting to reach an audience of women between the ages of 18 and 50 years old.

The campaign duration can be between 25 and 30 days depending on the preference of the parties.

The work performed by our team includes:

- Campaign coordination;
- Geotargeting of the audience;
- Creating the advertising campaign;
- Graphic design to create visuals for the ad;
- Catchy text that respects Facebook parameters to ensure visibility;
- Regular monitoring of the comments made on the Facebook Ads for the duration of the month-long campaign in accordance with Proactio's Netiquette.

### *Monitoring*

Our team will monitor the comments made on the Facebook Ads and will delete or hide comments according to the following criteria which have been included in the Proactio Netiquette:

- Language and etiquette: Any comments using offensive, abusive or inappropriate language, which could be considered rude, aggressive, vulgar, hateful, sexist, homophobic, disrespectful, discriminatory, racist, hurtful or of any other violent nature, will be masked.
- Defamatory language: Defamatory or offensive language directed at Proactio (including its employees and representatives), the parties to the litigation (including their employees and representatives) or class members will be masked.
- Respecting the theme: only comments that are related to the class actions, or their purpose, are authorized. Thread hijacking and/or self-promotional posts, whether for personal, commercial or political purposes, will be masked.
- Sensitive information, documents, photos or videos: all comments or posts containing personal or sensitive information, documents, photos or other attachments will be deleted.

### *Exclusions*

The aforementioned flat-rate fees exclude direct communications following messages or comments. Any messages or comments received following the Facebook campaign will be forwarded to you.

## SUMMARY

Summary of the Proposal	
Email Campaign	\$5 750
Facebook Ads Campaign	\$5 900
TOTAL (before taxes)	<u>\$11 650</u>

## Conclusion

Our resources and internal structure enable us to get started quickly and efficiently. We can coordinate the process as soon as our mandate is confirmed. You can rest assured that we are committed to being proactive on all fronts, and to maintaining the highest standards of confidentiality.

We reiterate that we would be delighted and proud to place the expertise and skills of our team at your disposal. We hope you will retain our services.

*Proactio, your trusted partner in class actions.*





# Appendix: Example of representative mandates

Class action	
Dossier :	Unnecessary strip searches in Rivières-des-Prairies and Bordeaux
N° :	500-06-000958-187
Number of claimants :	6,986 admissible strip searches representing more than 6,500 class members
Total amount to be distributed :	Settlement of \$7,650,000.00

## Description of mandate:

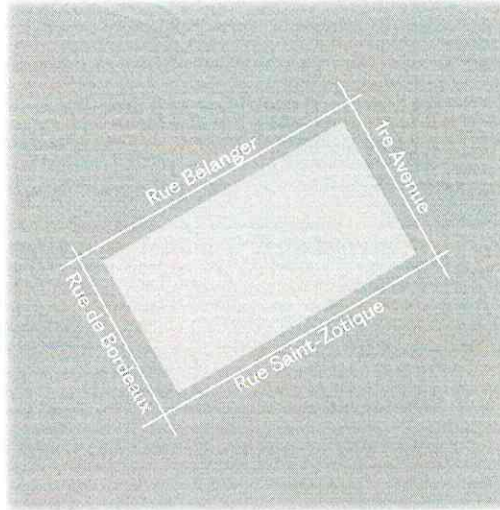
Between October 11, 2016, and March 20, 2020, the Ministry of Public Security transferred people held in custody after their arrest to the Rivière-des-Prairies or Bordeaux facilities for their video appearance. These individuals were strip-searched prior to the video appearance, and were released by the Tribunal at this hearing. An agreement has been reached with the Quebec government to compensate those who underwent such strip searches, even though they were released following the videoconference.

As part of this mandate, we carry out the following tasks:

- Collaborate with TJL and the Quebec government;
- Publish required notices to solicit claims from members;
- Send notices to members registered with lawyers in demand;
- Collaborate with the *Association des services de réhabilitation sociale du Québec* to reach as many members as possible;
- Take steps to produce an exhaustive list of class action members, tracing all those who met the class action criteria through court rolls and plunitifs;
- Set up a telephone line and e-mail inbox to answer claimants' questions and help them file their claim;
- Create a folder in the "Human Rights" section of the Proactio website, allowing members to obtain relevant information through a FAQ and making forms easily accessible;
- Receive and analyze claims;
- Calculate the distribution of the settlement amount to be paid to claimants;
- Managing the trust account ;
- Issue payments to claimants.

## Class action

Dossier : Settlement reached in the class action regarding the Floodings in Rosemont



N° : 500-06-000480-091

Number of claimants : Approximetaly 200 claimants

Total amount to be distributed : Settlement providing for a complex individual recovery process

### Description of mandate :

In 2009 and 2011, houses were flooded in Rosemont-Petite-Patrie. On March 27, 2023, the Superior Court of Quebec rendered a judgment approving the settlement agreement between the *Comité des citoyens inondés de Rosemont* (hereinafter: Comité) and the City of Montreal to, among other things, compensate the class members of the group for the damage caused to their property and for the stress and inconvenience suffered, without admission of liability.

As part of this mandate, we carry out the following tasks:

- Collaborate with Sylvestre Painchaud and the City of Montreal;
- Publish required notices to solicit claims from members;
- Send a clerk to the neighbourhood affected by the class action to increase the take-up rate;
- Set up a telephone line and e-mail box to answer claimants' questions and help them prepare their claim;
- Receive and analyze claims;
- Calculate the indemnities to be paid to claimants;
- Managing the trust account ;
- Issue payments to claimants.



## Class action

File :	Illegal interest rate increase on Toronto-Dominion Bank home equity lines of credit
N° :	500-06-000625-125
Number of claimants :	Potential 28,100 eligible accounts, of which nearly 16,000 holders have submitted a claim
Total amount distributed :	10 200 000 \$

### Description (distribution completed):

In the fall of 2009, the Toronto-Dominion Bank ("TD") raised the interest rate on its home equity lines of credit, which was illegal. An agreement was reached with TD to compensate holders of these lines of credit. In carrying out this mandate, we:

- Published the required notices soliciting claims;
- Working with KOPEL, sent notices to the holders of the 28,100 eligible accounts informing them of the procedure for filing a claim (approximately 45,000 notices were sent);
- Maintained a list of notices not delivered by Canada Post;
- Searched public records, made telephone calls and/or sent emails to inform nearly 1,000 potential members of the class action who did not receive the notice;
- Created a phone line and an inbox ([reglement-td@rcqt.com](mailto:reglement-td@rcqt.com)) to answer claimants' questions and support people in preparing their claim;
- Created a website (<https://reglement-td.ca/>) allowing claimants to submit their claims;
- Created a file in the "Public files" section of our website to ensure that all information and forms are easily accessible;
- Received and analyzed claims;
- Calculated the settlement amount to be distributed among claimants;
- Managed the trust account and reconciled bank statements on a monthly basis;
- Issued payments to claimants (approximately 16,000 cheques), working together with KOPEL.

## Class action

File : Highway 13



N° : 500-06-000853-172

Number of claimants : Nearly 2,400 claims submitted

Total amount distributed : Approximately \$2 million

Description (distribution completed):

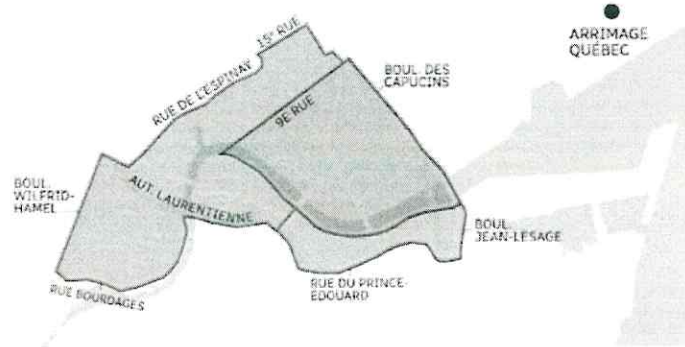
On March 14, 2017, a number of people were trapped in their cars on Highway 13 (south) and Highway 520 (East), in Montréal, during a snowstorm. An agreement was reached with the Attorney General of Québec allowing for compensation to be paid to individuals trapped between 7 p.m. on March 14, 2017, and 12 p.m. on March 15, 2017. In carrying out this mandate, we:

- Published the required notices soliciting claims;
- Created a phone line and an inbox ([a13@rcgt.com](mailto:a13@rcgt.com)) to answer claimants' questions and support people in preparing their claim;
- Made follow-up telephone calls and sent emails to hundreds of potential members who registered for the class action but did not file a claim;
- Created a website and database to administer claims completely online;
- Created a file in the "Public files" section of our website to ensure that all information and forms are easily accessible;
- Received and analyzed claims and obtained a number of supporting documents, notably sworn statements that the person was trapped in his or her vehicle and the reasons justifying claims submitted after the deadline set out in the Protocol;
- Calculated the distribution for the geographic breakdown of claimants;
- Managed the trust account and reconciled the bank account monthly;
- Distributed the amounts to claimants following Court analysis and approval.

## Class action

File : Red dust

### Zones compensées



N° : 200-06-000157-134

Number of claimants : Approximately 4,500 claimants

Total amount distributed : Amounts ranging from \$100 to \$200 per housing unit, for a total of nearly \$850,000

#### Description (completed):

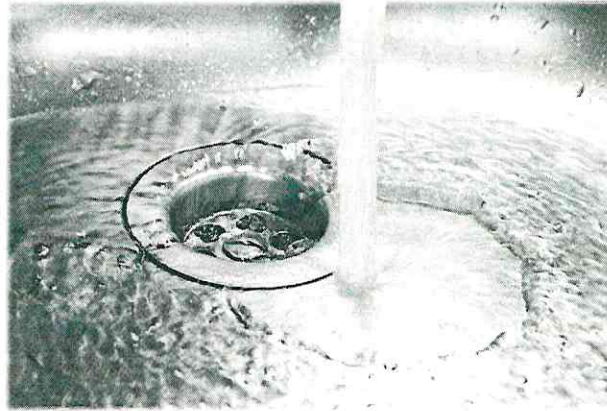
On February 5, 2019, the Superior Court issued a ruling allowing for compensation to be paid for thousands of housing units due to damage caused by red dust in the Limoilou, Vanier and Saint-Roch sectors of Quebec City on October 26, 2012. In carrying out this mandate, we:

- Planned and coordinated the implementation of a very comprehensive communication plan to publish information relating to the settlement, for which details could be discussed as necessary;
- Held information meetings so that claimants with no Internet access could submit their claim in person or to provide assistance when necessary;
- Created a phone line to answer claimants' questions and support people in preparing their claim;
- Created a file in the "Public files" section of our website to ensure that all information and forms are easily accessible;
- Received and verified claims, ensuring that evidence submitted related to the zones established in the settlement;
- Managed the trust account and reconciled the bank account on a monthly basis;
- Distributed amounts to the final claimants following our analysis.



## Class actions

File : Shannon class action



N° : 200-06-000038-37

Number of claimants : Potential for 4,500 claims

Total amount distributed : Approximately \$125 million, balance to be completed

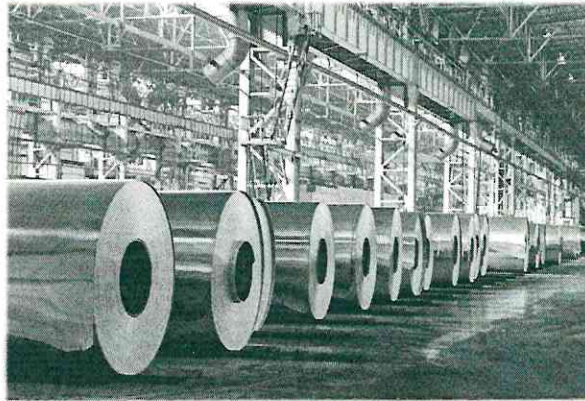
Description (in progress):

On January 17, 2020, the Québec Court of Appeal ordered the Government of Canada and Société immobilière Valcartier Inc. to pay compensation to individuals residing in the Shannon area between April 1995 and December 2001 for harm suffered as a result of trichloroethylene (TCE) groundwater contamination. On June 30, 2021, the Court appointed RCGT as Administrator for the claims to be submitted as part of the Claims Protocol to be implemented over a period of 12 months. In carrying out this mandate, we:

- Published the required notices soliciting claims from members of the group, issued a press release and created a Google AdWords campaign for certain key words;
- Created a website ([actioncollectiveshannon.ca](http://actioncollectiveshannon.ca)) so that claimants could submit their proof of claim online;
- Created a phone line and an inbox ([reclamationshannon@rcgt.com](mailto:reclamationshannon@rcgt.com)) to answer claimants' questions and support people in preparing their claim;
- Created a file in the "Public files" section of our website to ensure that all information is easily accessible;
- Received and verified claims and provided the required notices to obtain additional supporting documents, if necessary, as set out in the Protocol;
- Made a recommendation for each claim received, determining its eligibility, subject to Court approval;
- Calculated the amount of compensation to be paid and issued cheques to claimants as orders were received approving our recommendations;
- Managed the trust account and reconciled the bank account monthly;
- Prepared quarterly reports for the Court indicating progress for processing the claims, payments made and any issue encountered in connection with our mandate.

## Collective action

File : Saint-Georges claim



N° : 655-06-000001-055

Number of claimants : Between 1,500 and 2,000 claimants

Payment amount : 13 million settlement

Description (in progress) :

The Superior Court of Quebec has approved a settlement aimed at compensating owners, tenants and residents of the Saint-Georges district in Baie-Comeau for inconveniences and concerns related to atmospheric emissions of polycyclic aromatic hydrocarbons from Alcoa's Baie-Comeau aluminum smelter. The settlement was reached without admission of liability by the Alcoa smelter.

As part of this mandate, we have :

- Set up a phone line and e-mail box to answer claimants' questions and help them prepare their claim;
- Create a folder in the "Public Folders" section of our website to make relevant documents easily accessible;
- Receive and verify claims;
- Confirmed claimants' place of residence through reasonable verification of public information;
- Issue a decision for each claim received to rule on -its eligibility and, if necessary, issue a review of our initial decision;
- Manages trust accounts and performs bank reconciliations;
- Calculate the amount of compensation to be paid;
- Let's issue payments to claimants;

In the near future, we will :

- Prepare a final administration report.

## Liquidation and distribution

**File :** Syndicat des techniciens et artisans du réseau français de Radio-Canada (STARF)



**N° :** 500-11-050077-169

**Number of claimants :** 1,100 claimants

**Total amount distributed :** Nearly \$5 million

**Description (completed):**

RCGT was the Court-appointed liquidator for STARF and its seven local chapters, to which more than 4,000 members paid contributions. STARF's equity was distributed among active members at the date of liquidation, according to an actuarial calculation based on seniority and contributions paid by each member since joining STARF. An interim distribution was made during the administration process to accelerate the recovery of amounts by members. We issued more than 4,000 cheques to the nearly 1,100 members.



## **Avis par courriel – Option consommateurs c. Flo Health, inc.**

**Objet :** Avis d'autorisation d'une action collective contre Flo Health, inc.

Le présent courriel porte sur une action collective entreprise par Option consommateurs contre Flo Health, inc. concernant son application de suivi du cycle menstruel, de l'ovulation et de la fertilité « Flo ». Nous vous transmettons ce courriel, car, selon nos informations, vous avez utilisé l'application Flo, entre le 1er juin 2016 et le 23 février 2019.

Dans le cadre de cette action collective, Option consommateurs reproche à Flo Health, inc. d'avoir faussement représenté qu'elle assure la sécurité des renseignements personnels sensibles des utilisatrices de son application, qu'elle en préserve le caractère privé et qu'elle ne les communique pas à des tiers.

L'action collective vise à obtenir un jugement condamnant Flo Health, inc. à payer aux membres du groupe un montant égal à la valeur des renseignements personnels communiqués à des tiers sans leur consentement. L'action collective vise également le paiement de 5 millions de dollars en dommages punitifs de la part de Flo Health, inc. Les dommages punitifs ont une fonction préventive et dissuasive et peuvent être accordés non pas en compensation d'un préjudice subi, mais dans le but de sanctionner certaines conduites non souhaitables dans la société.

Le 30 novembre 2022, la Cour supérieure a autorisé Option consommateurs à entreprendre cette action collective contre Flo Health, inc.

Le jugement autorisant l'exercice de l'action collective pourrait entraîner des conséquences sur vos droits, que vous agissiez ou non. Veuillez lire cet avis attentivement.

### **Qui est membre du groupe?**

Vous êtes membre de l'action collective si vous êtes domiciliée au Québec et avez utilisé l'application de suivi du cycle menstruel, de l'ovulation et de la fertilité « Flo » offerte par Flo Health, inc. entre le 1er juin 2016 et le 23 février 2019.

### **Que dois-je faire pour participer à cette action collective?**

Si vous êtes membre du groupe et que vous êtes d'accord avec les objectifs de cette poursuite contre Flo Health, inc., vous n'avez rien à faire pour participer à cette action collective.

**Vous pouvez vous exclure du groupe** si vous ne désirez pas être lié par l'action collective contre Flo Health, inc. Cependant, en cas de règlement ou d'un jugement accordant des indemnités aux membres du groupe, vous n'y aurez pas droit.

**Comment vous exclure du groupe?** Pour vous exclure, vous devez aviser, par écrit, le greffier de la Cour supérieure en fournissant l'information suivante :

- Le numéro de dossier : 500-06-001131-214
- Votre nom, adresse et numéro de téléphone;
- Votre déclaration : Je suis membre du groupe et je désire m'exclure de l'action collective;
- Votre signature.

Vous devez envoyer votre lettre avant le [•] 2023 à l'adresse suivante :

**Greffier de la Cour supérieure du Québec**

Dossier : 500-06-001131-214

Palais de justice de Montréal

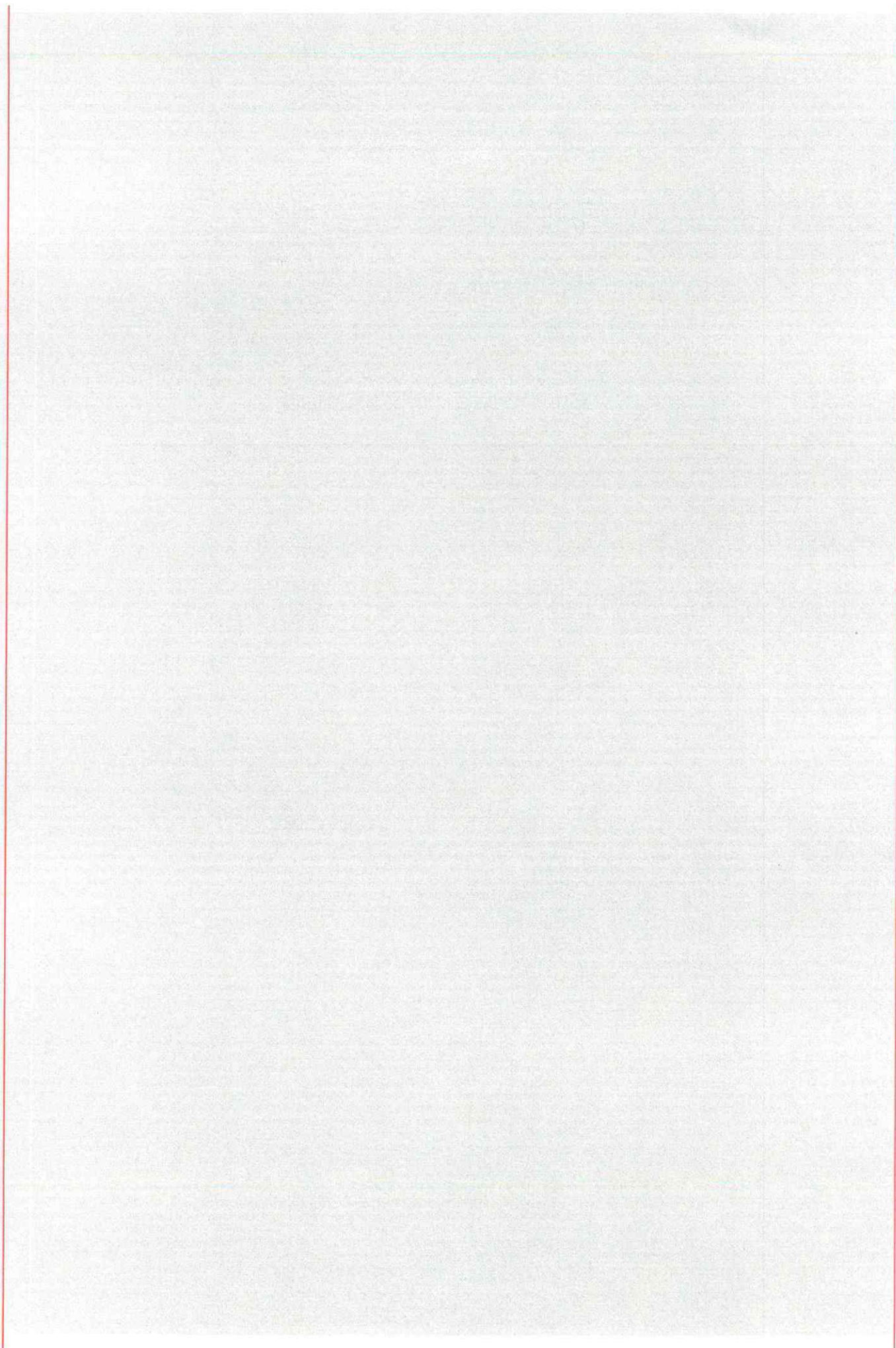
1, rue Notre-Dame Est, Bureau 1.120

Montréal (Québec) H2Y 1B6.

**Pour plus d'information sur cette action collective**

Consultez l'avis détaillé au lien suivant : <https://www.belleaulapointe.com/recours-collectif/flo-health/> ou communiquez avec le cabinet Belleau Lapointe au 1 (888) 987-6701 ou à l'adresse courriel [info@belleaulapointe.com](mailto:info@belleaulapointe.com).







## **Notice by email – Option consommateurs v. Flo Health, Inc.**

**Object:** Notice of class action authorized against Flo Health, Inc.

The present email is about a class action instituted by Option Consommateurs against Flo Health inc., regarding its menstrual cycle, ovulation, and fertility tracking application, “Flo”. You are receiving this email, because, according to our information, you used the “Flo” app, between June 1, 2016 and February 23, 2019.

In this class action, Option consommateurs alleges that Flo Health inc. falsely represented that it ensures the security of sensitive personal information of the users of its application, that it preserves its private character and that it does not communicate it to third parties.

The class action is seeking a judgment ordering Flo Health, Inc. to pay class members an amount equal to the value of the personal information disclosed to third parties without their consent. The class action further seeks payment of \$5 million in punitive damages by Flo Health, Inc. Punitive damages have a preventive and dissuasive function, and can be awarded not as compensation for harm suffered, but to sanction undesirable conduct in society.

On November 30, 2022, the Superior Court of Québec authorized Option Consommateurs to undertake this class action against Flo Health, Inc.

The judgment authorizing this class action may affect your rights, whether you take action or not. Please read this notice carefully.

### **Who is a class member?**

You are a member of the proposed class action if you are domiciled in Québec and used the “Flo” menstrual cycle, ovulation and fertility tracking app offered by Flo Health, Inc. between June 1, 2016 and February 23, 2019.

### **What must I do to take part in this class action?**

If you are a class member and you agree with the aims of the lawsuit against Flo Health, Inc., you do not have to do anything to take part in the class action.

**You may opt out from the class** if you do not wish to be involved in the class action against Flo Health, Inc. However, in case of a settlement or judgement allowing compensation to the class members, you will not be eligible.

**How to opt out?** To opt out, you must notify, the clerk of the Superior Court, in writing, by providing the following information:

- The file number: 500-06-001131-214;
- Your name, address and telephone number;
- Your declaration: I am a class member and I want to opt out of the class action;
- Your signature.

You must send your letter no later than on [●] 2023 to the following address:

**Clerk of the Superior Court of Québec**

File: 500-06-001131-214

Montréal Courthouse

1 Notre Dame East, Suite 1.120

Montréal (QC) H2Y 1B6

**For more information on this class action**

See a detailed notice on the following website: <https://www.belleaulapointe.com/en/class-actions/flo-health/> or contact Belleau Lapointe law firm at 1 (888) 987-6701 or by email at [info@belleaulapointe.com](mailto:info@belleaulapointe.com).

Avis d'action collective autorisée par la Cour supérieure du Québec

## **Avez-vous utilisé l'application de suivi du cycle menstruel, de l'ovulation et de la fertilité « Flo » offerte par Flo Health, inc. entre le 1<sup>er</sup> juin 2016 et le 23 février 2019?**

**Si oui, vous êtes peut-être membre d'une action collective et vos droits pourraient être touchés.**

### **L'ACTION COLLECTIVE**

Le présent avis porte sur une action collective entreprise par Option consommateurs contre Flo Health, inc. (« **Flo Health** ») concernant son application de suivi du cycle menstruel, de l'ovulation et de la fertilité « Flo ». Option consommateurs reproche à Flo Health d'avoir faussement représenté qu'elle assure la sécurité des renseignements personnels sensibles des utilisatrices de son application, qu'elle en préserve le caractère privé et qu'elle ne les communique pas à des tiers.

L'action collective vise à obtenir un jugement condamnant Flo Health à payer aux membres du groupe un montant égal à la valeur des renseignements personnels communiqués à des tiers sans leur consentement. L'action collective vise également le paiement de 5 millions de dollars en dommages punitifs de la part de Flo Health. Les dommages punitifs ont une fonction préventive et dissuasive et peuvent être accordés non pas en compensation d'un préjudice subi, mais dans le but de sanctionner certaines conduites non souhaitables dans la société.

Le 30 novembre 2022, la Cour supérieure a autorisé Option consommateurs à entreprendre cette action collective contre Flo Health.

### **LES MEMBRES DU GROUPE**

#### **Qui est membre du groupe?**

Vous êtes membre de l'action collective si vous êtes domiciliée au Québec et avez utilisé l'application de suivi du cycle menstruel, de l'ovulation et de la fertilité « Flo » offerte par Flo Health entre le 1<sup>er</sup> juin 2016 et le 23 février 2019.

#### **Que dois-je faire pour participer à cette action collective?**

Si vous êtes un membre du groupe et que vous êtes d'accord avec les objectifs de cette poursuite contre Flo Health, vous n'avez rien à faire pour participer à cette action collective.

#### **Puis-je intervenir dans cette action collective?**

Oui. Si vous êtes membre du groupe et que vous en faites la demande, le tribunal pourrait vous permettre d'intervenir dans la procédure judiciaire s'il juge votre intervention utile au groupe. Si vous intervenez, vous pourriez être interrogé à la demande de Flo Health et éventuellement devoir assumer des frais judiciaires.

Le jugement autorisant l'exercice de l'action collective pourrait entraîner des conséquences sur vos droits, que vous agissiez ou non. Veuillez lire cet avis attentivement.



Le Jugement d'autorisation identifie comme suit les principales questions de faits et de droit à être traitées collectivement dans le cadre de l'action collective :

- i. Flo Health inc. a-t-elle communiqué des renseignements personnels des membres du groupe à des tiers?
- ii. Le cas échéant, Flo Health, inc. s'est-elle engagée auprès des membres du groupe d'assurer la protection des renseignements personnels et des droits à la vie privée et de ne pas communiquer leurs renseignements personnels à des tiers?
- iii. Si elle ne s'y est pas engagé, Flo Health, inc. a-t-elle communiqué les renseignements personnels des membres du groupe à des tiers sans leur consentement?
- iv. Les renseignements personnels communiqués par Flo Health, inc. à des tiers ont-ils une valeur? Et si oui, laquelle?
- v. Le cas échéant, les membres ont-elles été privées d'un gain équivalent à la valeur de ces renseignements par la faute de Flo Health, inc.?
- vi. Les membres du groupe sont-elles en droit d'exiger de Flo Health, inc. le remboursement des sommes engagées pour les présentes procédures et pour toute enquête relativement à la présente affaire?
- vii. Flo Health, inc. doit-elle être condamnée à payer des dommages-intérêts punitifs aux membres du groupe?
- viii. Le cas échéant, quelle est la valeur des dommages-intérêts punitifs auxquels doit être condamnée Flo Health, inc. afin d'assurer leur fonction préventive?

Le jugement d'autorisation identifie également les conclusions recherchées qui s'y rattachent comme suit :

- a) Accueillir l'action collective d'Option consommateurs contre Flo Health, inc.;
- b) Condamner Flo Health, inc. à payer aux membres du groupe une somme égale à la valeur des renseignements personnels communiqués par la Flo Health, inc. à des tiers sans leur consentement, sauf à parfaire, et en Ordonner le recouvrement collectif;
- c) Condamner Flo Health, inc. à payer aux membres du groupe une somme de cinq millions de dollars à titre de dommages-intérêts punitifs, et Ordonner le recouvrement collectif de cette somme;
- d) Condamner Flo Health, inc. à acquitter les coûts encourus pour toute enquête nécessaire afin d'établir sa responsabilité en l'instance, incluant les honoraires des avocats et les déboursés, y compris les frais d'experts et Ordonner le recouvrement collectif de ces sommes;
- e) Condamner Flo Health, inc. à payer sur l'ensemble des sommes susdites l'intérêt légal ainsi que l'indemnité additionnelle prévue au Code civil du Québec à compter de la date de signification de la Demande pour autorisation d'exercer une action collective;
- f) Ordonner à Flo Health, inc. de déposer au greffe de cette Cour la totalité des sommes susdites, ainsi que les intérêts et l'indemnité additionnelle;
- g) Ordonner que la réclamation de chacun des membres du groupe fasse l'objet d'une liquidation individuelle ou, si ce procédé s'avère inefficace ou impraticable, Ordonner à Flo Health, inc. de payer une somme égale aux montants des ordonnances de recouvrement collectif aux fins d'être utilisée pour introduire des mesures qui bénéficieront aux membres du groupe et dont la nature sera déterminée par le Tribunal, conformément notamment aux provisions de l'article 597 du Code de procédure civile;
- h) Le tout avec dépens, y compris les frais d'experts et d'avis.

## **S'EXCLURE**

**Ceci est votre seule occasion de vous exclure de l'action collective.**

**Vous pouvez vous exclure du groupe** si vous ne désirez pas être lié par l'action collective contre Flo Health.

**Si vous choisissez de vous exclure.**

- 1) Vous conservez le droit de poursuivre Flo Health par vous-même, relativement à la problématique décrite dans le présent avis;
- 2) Vous ne serez pas lié par les jugements rendus par le tribunal dans cette action collective; mais
- 3) Vous n'obtiendrez aucune indemnité si une entente intervient entre les parties ou si le tribunal rend une décision finale en faveur d'Option consommateurs.

**Si vous ne faites rien et, par conséquent, vous ne vous excluez pas.**

- 1) Vous renoncez au droit de poursuivre par vous-même Flo Health, relativement à la problématique décrite dans le présent avis;
- 2) Vous serez lié par les jugements rendus par le tribunal dans cette action;
- 3) Vous pourriez percevoir une indemnité si le tribunal rend une décision finale en faveur d'Option consommateurs ou si une entente est conclue.

## **Comment vous exclure du groupe?**

Pour vous exclure, vous devez aviser, par écrit, le greffier de la Cour supérieure en fournissant l'information suivante :

- Le numéro de dossier : 500-06-001131-214
- Votre nom, adresse et numéro de téléphone;
- Votre déclaration : Je suis membre du groupe et je désire m'exclure de l'action collective;
- Votre signature.

Vous devez envoyer votre lettre avant le [•] 2023 à l'adresse suivante :

### **Greffier de la Cour supérieure du Québec**

Dossier : 500-06-000816-161  
Palais de justice de Montréal  
1, rue Notre-Dame Est, Bureau 1.120  
Montréal (Québec) H2Y 1B6.

## **LES AVOCATS DU GROUPE**

Le cabinet d'avocats Belleau Lapointe, s.e.n.c.r.l. représente Option consommateurs, et par conséquent, les membres du groupe.



**Belleau Lapointe**

306, Place d'Youville, Bureau B-10  
Montréal (Québec) H2Y 2B6

Numéro sans frais : 1 888 987-6701

Téléphone : 514-987-6700

Courriel : [info@belleaulapointe.com](mailto:info@belleaulapointe.com)

**Y a-t-il des frais pour les membres de l'action collective?**

Vous n'avez pas à payer personnellement les avocats des membres du groupe qui travaillent sur l'action collective. Les avocats seront payés à partir des sommes qui pourraient être recouvrées dans le cadre de l'action collective, s'il y a lieu. Le tribunal décidera du caractère raisonnable des honoraires des avocats d'Option consommateurs.

**POUR PLUS D'INFORMATION SUR CETTE ACTION COLLECTIVE**

Vous pouvez consulter le texte du jugement autorisant l'exercice de l'action collective ici : [Lien].

Si vous avez des questions, vous pouvez les adresser à Option consommateurs ou à ses avocats, le cabinet Belleau Lapointe, par écrit ou par téléphone :

**Option consommateurs**

Maison du développement durable  
50, rue Sainte-Catherine Ouest, Bureau 440  
Montréal (Québec) H2X 3V4

Numéro sans frais : 1 888 412-1313

Téléphone : 514 598-7288

Courriel : [info@option-consommateurs.org](mailto:info@option-consommateurs.org)

**Belleau Lapointe**

306, Place d'Youville, Bureau B-10  
Montréal (Québec) H2Y 2B6

Numéro sans frais : 1 888 987-6701

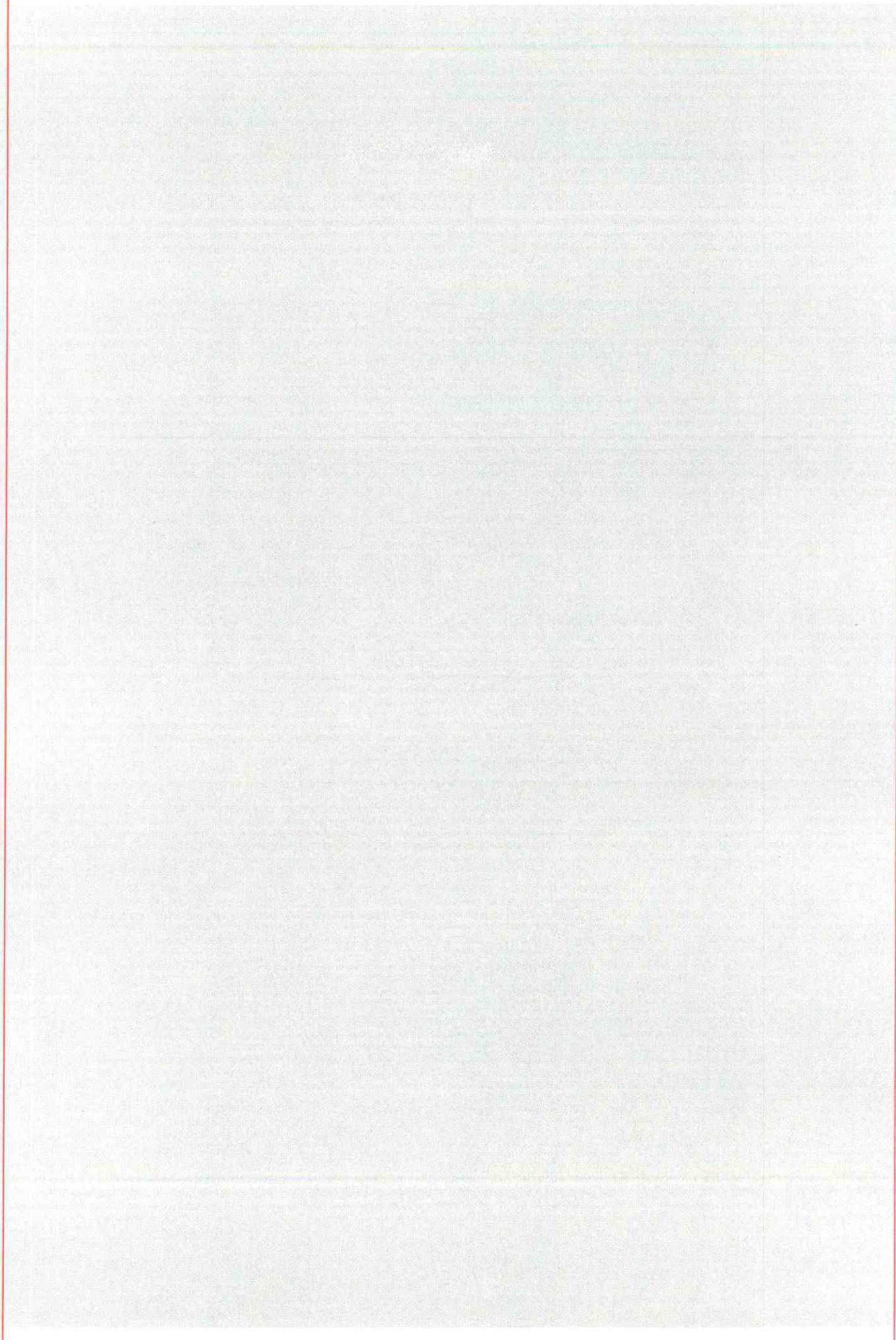
Téléphone : 514 987-6700

Courriel : [info@belleaulapointe.com](mailto:info@belleaulapointe.com)

La référence du dossier est :

*Option consommateurs c. Flo Health, inc.*, No. 500-06-001131-214, Cour supérieure du Québec, district de Montréal.





**Did you use the “Flo” menstrual cycle, ovulation and fertility tracking app offered by Flo Health, Inc. between June 1, 2016 and February 23, 2019.**

**If so, you may be a member of a class action and your legal rights may be affected.**

**THE CLASS ACTION**

This notice concerns a class action instituted by Option Consommateurs against Flo Health, Inc. (“**Flo Health**”) regarding its menstrual cycle, ovulation, and fertility tracking application, “Flo”. In this class action, Option consommateurs alleges that Flo Health falsely represented that it ensures the security of sensitive personal information of the users of its application, that it preserves its private character and that it does not communicate it to third parties.

The class action is seeking a judgment ordering Flo Health to pay class members an amount equal to the value of the personal information disclosed to third parties without their consent. The class action further seeks payment of \$5 million in punitive damages by Flo Health. Punitive damages have a preventive and dissuasive function, and can be awarded not as compensation for harm suffered, but to sanction undesirable conduct in society.

On November 30, 2022, the Superior Court of Québec authorized Option Consommateurs to undertake this class action against Flo Health.

**THE CLASS MEMBERS**

**Who is a class member?**

You are a member of the proposed class action if you are domiciled in Québec and used the “Flo” menstrual cycle, ovulation and fertility tracking app offered by Flo Health, Inc. between June 1, 2016 and February 23, 2019.

**How do I participate in this class action?**

If you are a class member and you agree with the aims of the lawsuit against Flo Health, you do not have to do anything to take part in the class action.

**Can I intervene in this class action?**

Yes. If you are a class member and you request it, the Court may allow you to intervene in the court proceedings, if your intervention is deemed useful to the class. If you intervene, you may be subject to an examination at Flo Health’s request or you may have to pay judicial fees.

The judgment authorizing this class action may affect your rights, whether you take action or not. Please read this notice carefully.

The judgment authorizing the class action identifies the principal questions of law to be addressed collectively in the class action as follows:

- i. Has Flo Health, inc. disclosed the personal information of class members to third



Notice of class action authorized by the Superior Court of Québec

- parties?
- ii. If so, has Flo Health, inc. undertaken to class members to protect their personal information and privacy rights and not to disclose their personal information to third parties?
  - iii. If it did not, did Flo Health, inc. disclose the personal information of class members to third parties without their consent?
  - iv. Does the personal information disclosed by Flo Health, inc. to third parties have any value? And if so, what is it?
  - v. If so, were members deprived of a gain equivalent to the value of this information through the fault of Flo Health, inc.?
  - vi. Are the class members entitled to demand from Flo Health, inc. reimbursement of amounts incurred for the present proceedings and for any investigation in connection with the present case?
  - vii. Should Flo Health, inc. be ordered to pay punitive damages to class members?
  - viii. If so, what is the value of the punitive damages to which Flo Health, inc. must be condemned in order to ensure their deterrent function?

The authorizing judgment also identifies the conclusions it seeks as follows:

- a) Grant the Applicant's class action against Flo Health, inc.;
- b) Condemn Flo Health, inc. to pay to the class members an amount equal to the value of the personal information disclosed by Flo Health, inc. to third parties without their consent, to be perfected, and Order the collective recovery;
- c) Condemn Flo Health, inc. to pay to the class members five million dollars in punitive damages, and Order the collective recovery of this amount;
- d) Condemn Flo Health, inc. to pay the costs of any investigation necessary to establish its liability in these proceedings, including attorneys' fees and disbursements, including expert fees, and Order collective recovery of such amounts;
- e) Condemn Flo Health, inc. to pay on all of the above-mentioned sums the legal interest and additional indemnity provided by the Civil Code of Quebec as of the date of service of the Application for Authorization of a Class Action;
- f) Order Flo Health, inc. to deposit at the Court Office all of the above-mentioned amounts as well as the legal interest and the additional;
- g) Order that the claim of each member of the class shall be liquidated individually or, if that process proves inefficient or impracticable, Order Flo Health, inc. to pay a sum equal to the amounts of collective recovery orders to be used to initiate actions that will benefit class members the nature of which shall be determined by the Court, in accordance with the provisions of Article 597 of the *Code of Civil Procedure*;
- h) The whole with costs, including expert and opinion fees.

#### OPTING OUT

**This is your only chance to opt out from the class action.**

**You may opt out from the class** if you do not wish to be involved in the class action against Flo Health.

**If you chose to opt out.**

- 1) You retain your rights to institute your own lawsuit against Flo Health regarding the issue described in this notice;



Notice of class action authorized by the Superior Court of Québec

- 2) You will not be bound by the judgments rendered by the Court in this class action; but
- 3) You will not be entitled to receive compensation if a settlement is reached between the parties, or if the Court grants a final decision in favor of Option Consommateurs.

**If you do nothing and therefore do not opt out.**

- 1) You give up your rights to institute your own lawsuit against Flo Health regarding the issue describe in this notice;
- 2) You will be bound by the judgments rendered by the Court in this class action;
- 3) You will be entitled to receive a payment if the Court grants a final decision in favour of Option consommateurs, or if a settlement is reached.

**How do I opt out?**

To opt out, you must notify the clerk of the Superior Court in writing by providing the following information:

- The file number: 500-06-001131-214;
- Your name, address and telephone number;
- Your declaration: I am a class member and I want to opt out of the class action;
- Your signature.

You must send your letter no later than on [•] 2023 to the following address:

**Clerk of the Superior Court of Québec**

File: 500-06-001131-214  
Montréal Courthouse  
1 Notre Dame East, Suite 1.120  
Montréal (QC) H2Y 1B6

**CLASS COUNSEL**

The law firm Belleau Lapointe, LLP represents Option consommateurs, and therefore, the class members.

**Belleau Lapointe**  
306, Place d'Youville, Office B-10  
Montréal (Québec)  
H2Y 2B6

Toll-free: 1 888 987-6701  
Telephone: 514-987-6700  
Email: [info@belleaulapointe.com](mailto:info@belleaulapointe.com)

**Are there fees for the class members?**

You do not have to personally pay the class counsel working on this class action. The class counsel will be paid from the damages that may be awarded through the class action, if applicable. The Court will be asked to decide the reasonableness of Option consommateurs' class counsel legal fees.

Notice of class action authorized by the Superior Court of Québec

**FOR MORE INFORMATION ON THIS CLASS ACTION**

You can consult the judgment authorizing the class action at the following at: [Lien].

If you have questions, you can contact Option consommateurs or their lawyers, the law firm Belleau Lapointe by email or phone:

**Option consommateurs**

Maison du développement durable  
50, Sainte-Catherine West Street, Office 440  
Montréal (Québec) H2X 3V4

Toll-free: 1 888 412-1313

Telephone: 514 598-7288

Email: [info@option-consommateurs.org](mailto:info@option-consommateurs.org)

**Belleau Lapointe**

306, Place d'Youville, Office B-10  
Montréal (Québec) H2Y 2B6

Toll-free: 1 888 987-6701

Telephone: 514 987-6700

Email: [info@belleaulapointe.com](mailto:info@belleaulapointe.com)

The reference for this class action file is:

*Option consommateurs v. Flo Health, inc.*, No. 500-06-001131-214, Superior Court of Québec, district of Montréal.

### Avis – bannières publicitaires

**Avez-vous utilisé l'application de suivi du cycle menstruel, de l'ovulation et de la fertilité « Flo » offerte par Flo Health, inc. entre le 1<sup>er</sup> juin 2016 et le 23 février 2019?**

Si oui, vous êtes peut-être membre d'une action collective et vos droits pourraient être touchés.

**[CLIQUEZ ICI](#) POUR EN SAVOIR PLUS.**

### Banner ads

**Did you use the "Flo" menstrual cycle, ovulation and fertility tracking app offered by Flo Health, Inc. between June 1, 2016 and February 23, 2019.**

If so, you may be a member of a class action and your legal rights may be affected.

**[CLICK HERE](#) TO LEARN MORE.**