

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-06-001192-224

SUPERIOR COURT
(Class Actions)

ARNAUD VERDIER, domiciled at [REDACTED]
[REDACTED]

and

ALEXANDRE LEVKOVSKY, domiciled at [REDACTED]
[REDACTED]

Applicants

v.

ROGERS COMMUNICATIONS CANADA INC., legal person having a principal establishment at 4000-800 rue De La Gauchetiere Ouest, Montreal, district of Montreal, Province of Quebec, H5A 1K3

and

ROGERS COMMUNICATIONS INC., legal person having a principal establishment at 4000-800 rue De La Gauchetiere Ouest, Montreal, district of Montreal, Province of Quebec, H5A 1K3

and

FIDO SOLUTIONS INC., legal person having a principal establishment at 4000-800 rue De La Gauchetiere Ouest, Montreal, district of Montreal, Province of Quebec, H5A 1K3

and

ERICSSON CANADA INC., legal person having its head office at 8275 Route Transcanadienne, Montreal, district of Montreal, Province of Quebec, H4S 0B6

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

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTREAL, YOUR APPLICANTS STATE:

1. The Applicants seek authorization to institute a class action on behalf of the following class and subclass of which they are members, namely:

Class:

All consumers and businesses in Canada who had a service contract with Rogers, Fido Mobile, Cityfone or Chatr Mobile and who did not receive wireline or wireless services (including 9-1-1 services) as of July 8, 2022 and until the services were fully restored;

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

Subclass:

All natural and legal persons in Canada who could not operate with their own device or make personal or business transactions/operations (including paying with or receiving payment by Interac), because of the Rogers outage on July 8, 2022 and until the Rogers network was fully restored;

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

or any other class to be determined by the Court;

2. The Rogers and Fido Defendants (herein referred to collectively as “**Rogers**”), offer consumers and businesses wireless and wireline telecommunications services, under several names, including but not limited to “Rogers Wireless”, “Rogers”, “Rogers for Business”, “Fido”, “Cityfone”, and “Chatr”, as it appears from extracts of the CIDREQ for the Defendants communicated herewith *en liasse* as **Exhibit P-1**;
- 2.1 The Defendant Ericsson Canada Inc. (hereinafter “**Ericsson**”) is the exclusive network provider for and “network partner” of Rogers. Ericsson has its head office Montreal, Quebec, as it appears from an extract of the CIDREQ communicated as **Exhibit P-30**;

3. Up until the network outage beginning at around 2:00 a.m. on July 8, 2022, Rogers sold its telecommunication services all across Canada and Quebec by advertising variations of the following to the public: “*Canada’s Most Reliable Network*”. Ericsson, Rogers’ network partner, was aware of these representations;
4. The advertising always contained reference to Rogers having the most “reliable” network, with the most recent version of the marketing stating as follows: “*Get on Canada’s Most Reliable 5G Network*”, as well as “*Quebec’s most reliable 5G network*”, as it appears from screen captures of Rogers website (www.rogers.com/5g) from July 10, 2022 communicated as **Exhibit P-12** (the term “most reliable” has since been removed from the Rogers website) and from a picture of the Rogers’ advertising on a billboard located at 5415 Côte-de-Liesse road in Montreal, taken by a Class member on July 11, 2022 and communicated as **Exhibit P-13**;
5. However, as of July 8, 2022, Rogers’ management instructed its stores to remove all advertising containing the “*Get on Canada’s Most Reliable 5G Network*” claim from its stores, as more fully detailed herein below;
6. From around 2:00 a.m. on July 8, 2022 until very late that evening and into the morning of July 9, 2022 and for several days in some cases, the Rogers network failed and Rogers could not offer its wireline and wireless telecommunication services, including telephony, mobile and internet services to its customers across Canada. This outage also caused companies that contract with Rogers not be able to provide these essential services to their respective customers. [...] The problem persisted in certain areas across Canada, including in Quebec, into July 10, 2022, for a third day;
7. On July 8, 2022, Tony Staffieri, President and CEO at Rogers, issued a public statement that was notably posted on the official Rogers Twitter account (“RogersHelps”) at 10:37 PM, and on the Rogers website (<https://about.rogers.com/news-ideas/a-message-from-tony-staffieri-president-and-ceo-at-rogers/>) in which he addresses all “Canadians” (thereby including Rogers customers¹ and non-customers²) and admitted that Rogers “**let you down**”, as it appears from the statement communicated herewith in its English and French versions *en liasse* as **Exhibit P-2**:

Dear Canadians,

We know you count on Rogers to connect you to emergency services, make payments, serve your customers, connect with work and keep in touch with friends and family. We take that responsibility very seriously and **today we let you down**.

¹ Class Members.

² Subclass Members.

We can and will do better.

As you know, we experienced a network outage across both wireless and wireline service that began early this morning.

We have made meaningful progress towards bringing our networks back online and many of our wireless customers are starting to see services return. We don't yet have an ETA on when our networks will be fully restored but we will continue to share information with our customers as we restore full service.

We know going a full day without connectivity has real impacts on our customers, and all Canadians. On behalf of all of us here at Rogers, Rogers for Business, Fido, chatr and cityfone, I want to sincerely apologize for this service interruption and the impact it is having on people from coast to coast to coast.

As our teams continue working to resolve the situation, I want to make two commitments to you:

1. First, we are working to fully understand the root cause of this outage and we will make all the changes necessary to ensure that in the future we meet and exceed your expectations for our networks.
2. Second, we will make this right for our valued customers. **We will proactively apply a credit to all our customers impacted by the outage** and will share more details shortly.

I take full responsibility for ensuring we at Rogers earn back your full trust, and are once again there to connect you to what matters.

Sincerely,

Tony Staffieri

President and CEO

- 7.1 During a live interview on CBC's Power & Politics, Kye Prigg, Rogers' senior Vice-President of access networks and operations admitted that millions of people across Canada were impacted by the Rogers outage and specifically admitted the following, as it appears from a copy of the CBC article published on July 8, 2022, titled "Rogers says services mostly restored after daylong outage left millions offline" (Exhibit P-11):

“We don't understand how the different levels of redundancy that we build across the network coast to coast have not worked”.

7.2 This CBC article (Exhibit P-11) also confirms the following:

- a) “Rogers-owned flanker brands like Fido and Chatr also went offline, as did services not directly controlled by Rogers, such as emergency services, travel and financial networks.”
- b) “A nationwide telecommunications outage **with a network provider** ... is impacting the availability of some Interac services,” a spokesperson for Interac confirmed to CBC News.”
- c) “Debit is currently unavailable online and at checkout. Interac e-transfer is also widely unavailable, impacting the ability to send and receive payments.”
- d) “CBC's radio station in Kitchener, Ont., went offline and off the air as a result of the outage.”
- e) “Emergency services across the country reported issues, in some cases at the dispatching centres themselves, but mostly just with an inability for Rogers customers to contact them.”
- f) “Government services including already bottlenecked passport offices, Service Canada, Public Services and Procurement Canada and the Canada Revenue Agency are also affected.”
- g) “The Canada Border Services Agency says the ArriveCan app is disabled because of the outage, so anyone arriving in Canada must have a paper copy of their vaccination status.”

7.3 Even bail hearings had to be postponed due to the Rogers outage, meaning that some people remained incarcerated over the weekend, as it appears from the July 8, 2022, CTV news articles titled “*Rogers outage affecting some Montreal municipal services*”, communicated as **Exhibit P-28**:

8. On July 9, 2022, Mr. Staffieri issued another public statement, once again posted on the official Rogers Twitter account (at 4:06 PM) and on the Rogers website (<https://about.rogers.com/news-ideas/a-message-from-rogers-president-and-ceo/>) in which he addressed “*our valued customers*” and “*all Canadians*” (thereby including Class and Subclass members) and again admitted that “***We let you down yesterday***”, as it appears from the statement communicated herewith in its English and French versions *en liasse* as **Exhibit P-3**:

To our valued customers and all Canadians,

I am reaching out to share that our services have been restored, and our networks and systems are close to fully operational. Our technical teams are continuing to monitor for any remaining intermittent issues. I also want to outline an action plan we are putting in place to address what happened.

I also want to share what we know about what happened yesterday. We now believe we've narrowed the cause to a network system failure following a maintenance update in our core network, which caused some of our routers to malfunction early Friday morning. We disconnected the specific equipment and redirected traffic, which allowed our network and services to come back online over time as we managed traffic volumes returning to normal levels.

We know how much our customers rely on our networks and I sincerely apologize. We're particularly troubled that some customers could not reach emergency services and we are addressing the issue as an urgent priority.

We will proactively credit all customers automatically for yesterday's outage. This credit will be automatically applied to your account and no action is required from you.

As CEO, I take full responsibility for ensuring we at Rogers earn back your full trust, and am focused on the following action plan to further strengthen the resiliency of our network:

1. **Fully restore all services:** While this has been nearly done, we are continuing to monitor closely to ensure stability across our network as traffic returns to normal.
2. **Complete root cause analysis and testing:** Our leading technical experts and global vendors are continuing to dig deep into the root cause and identify steps to increase redundancy in our networks and systems.
3. **Make any necessary changes:** We will take every step necessary, and continue to make significant investments in our networks to strengthen our technology systems, increase network stability for our customers, **and enhance our testing.**

We let you down yesterday. You have my personal commitment that we can, and will, do better.

Tony Staffieri
President and CEO, Rogers Communications

9. In both of his public statements, which included admissions and apologies, Mr. Staffieri – who admits that all Canadians suffered a prejudice – stated that Rogers “*will proactively credit all customers automatically... and no action is required from you*”, which is misleading and inadequate for several reasons;
10. First, despite apologizing to all Canadians, many of whom could not access basic and essential services due to the Rogers network failures, Rogers is not offering these Subclass members any compensation. Second, Mr. Staffieri does not specify the amount of the credit despite knowing full well that the credit is for a minimal amount and that announcing that amount would further fuel the public backlash Rogers is facing;
11. In fact, the official Rogers Twitter account tweeted Mr. Staffieri’s second public statement that does not disclose the credit amount on **July 9 at 4:06 PM**, while that same Rogers Twitter account had previously tweeted that same day, July 9 at **1:51 PM**, stating it is a “**credit equivalent to two days of service**”, as it appears from a screen capture of said tweet communicated herewith as **Exhibit P-4**:



- 11.0.1 On July 10, 2022 (updated on July 11, 2022), CBC News published an article titled “Rogers customers grow increasingly frustrated on 3rd day without cell, internet service”, communicated as **Exhibit P-29**, in which it was confirmed that the outage started on Friday, July 8, 2022 and that the services had still not been fully restored 3 days later. The article further confirms the following:
 - a) “We are aware that some customers continue to experience intermittent challenges with their services,” Rogers said.”

- b) “Jen Dieleman, a DoorDash driver in London, Ont., said she was unable to work on Friday or Saturday because her Rogers cellphone couldn't connect to the app that drivers use to pick up and deliver orders. Her service was still spotty on Sunday, she said. "I'm out trying to work right now, and it's still glitching and having issues," Dieleman said, adding that she had missed out on picking up orders due to issues with her cellphone data.”
- c) “Rogers' issues were also affecting other companies that rely on its network, including internet provider TekSavvy, which was advising its customers in Ontario and Quebec of ongoing issues on Sunday afternoon. In a statement, TekSavvy vice-president Andy Kaplan-Myrth said thousands of customers were still reporting slow or intermittent internet speeds, or were having difficulty connecting to the internet at all.”

11.0.2 By late Monday, July 11, 2022, the Rogers websites were still confirming that most but not all of their services had been restored;

11.1 On July 13, 2022 (i.e. two days after the initial filing of proceedings in the present case), Mr. Staffieri issued a third public statement again addressed to all “Canadians”, as it appears from **Exhibit P-14**:

Dear Canadians,

Our network outage last Friday was unacceptable. Simply put, **we failed on our promise to be Canada’s most reliable network.**

This outage caused real pain and significant frustration for everyone. Canadians were not able to reach their families. Businesses were unable to complete transactions. And critically, emergency and essential calls could not be completed.

No one – not our customers, our governments, and not us – is anywhere close to finding what happened acceptable.

Now we have to make things right.

Our network is fully operational to the standards you have come to expect. Our customer service representatives are working around the clock and have caught up on the backlog of issues. **We have also increased the credit on all our customers’ bills, as some of you experienced longer delays in resuming services.**

In speaking to many of you, it is clear that what matters most is that we ensure this doesn’t happen again.

You have my personal commitment that Rogers will make every

change and investment needed to help ensure that it will not happen again.

As well, working with governments and our industry, we will implement what is needed to ensure that 911 and essential services can continue, no matter what outage may occur.

I understand that it is only through our actions, and with time, that we can restore your confidence in us. We can and will do better.

- 11.2 Around the same time, Rogers sent an apology email to all of its clients, including to the Applicant Mr. Verdier, as it appears from a copy of the email received by Mr. Verdier communicated as **Exhibit P-15**;
- 11.3 On or around July 21, 2022 (less than 2 weeks after the outage), Rogers replaced its Chief Technology Officer, Jorge Fernandes, “effective immediately”. On July 24, 2022, Mr. Staffieri issued a fourth public statement, this time addressed only “To Our Valued Customers”, notably declaring that Rogers will invest “\$10 billion over the next three years” to pay for “...more oversight, more testing and greater use of Artificial Intelligence to ensure we’re able to deliver the reliable service you deserve”, as it appears from **Exhibit P-16**;
- 11.4 Prior to issuing this fourth statement, Rogers responded to a July 12, 2022 request for information from the CRTC related to the July 8 outage, as it appears from a copy of Rogers’ heavily redacted response dated July 22, 2022, communicated as **Exhibit P-17**;
- 11.5 In its July 22 response to the CRTC’s request, Rogers declared that “all active Rogers customers will be receiving a 5-day credit for all their services (i.e. wireless, home phone, TV and Internet), including residential and small businesses” and that “**we felt that 5 days fairly compensated our customers for their frustration with the outage**” (Exhibit P-17, last page of Rogers’ response). This statement constitutes an extrajudicial admission by Rogers that: **(i) the 5-day credit was to compensate for “frustration” only and none of other damages claimed herein; [...] (ii) in terms of compensation Rogers makes no distinction between its residential and small business customers; and (iii) these credits did not include extra charges for roaming and/or international travel “Roam Like Home” type services which charge clients approximately \$10 to \$15 extra per day of use while travelling and using the wireless service in another country (knowing very well that many Class Members were indeed travelling abroad during the summer month of July and were therefore charged these extra fees);**
- 11.6 The Applicants and many others submit that the 5-day credit offered by Rogers to compensate for “frustration” is inadequate. For example, York University governance, law and ethics professor Richard Leblanc, is quoted as follows in a

July 13, 2022 CTV News article titled “**Rogers’ five-day refund ‘wholly inadequate’ legal expert says**” communicated as **Exhibit P-18**:

“Rogers Communications Inc.’s move to credit its customers with the equivalent of five days of service following the massive outage that crippled its network last week is “wholly inadequate,” a legal expert said.

“Five days is predicated on the possible belief that damage to individuals and small and medium-sized businesses can be quantified solely on the basis of a portion of a monthly fee,” said York University governance, law and ethics professor Richard Leblanc in an interview Wednesday.

Payments could not occur, sales were missed, meetings were missed, work could not be done, and businesses could not operate fully, **so damages would be broader than that**, Leblanc explained.

...

Yuka Sai, a lawyer with the Public Interest Advocacy Centre (PIAC) said consumers deserve a say in what constitutes fair compensation when mass outages occur.

...

Jasmin Guenette, vice-president of National Affairs at the Canadian Federation of Independent Business (CFIB), said for small and medium-sized businesses, the five-day reimbursement is “likely to be insufficient to cover the revenue lost.”

Rogers should be compensating businesses with a full month of free service, he added.

- 11.7 The Court of Appeal recently held that a voluntary payment of certain sums by a merchant is not a bar to authorization (*Federal Express Canada Corporation c. Farias*, 2019 QCCA 1954, para. 18) and the Applicants reiterate that they claim significantly more than the 5 days worth of credits given the damages and the troubles and inconveniences which Rogers has already admitted to causing;
- 11.8 On July 25, 2022, Mr. Staffieri and others testified in front of the House of Commons’ Standing Committee on Industry and Technology, as part of the government’s investigation into the July 8 outage. A copy of the transcripts of certain portions of this July 25 meeting will be filed when ready as **Exhibit P-19**;
- 11.9 In his opening statement published on the Rogers website, Mr. Staffieri stated the following, as it appears from **Exhibit P-20**:

“On that day, **we failed to deliver on our promise to be**

Canada's most reliable network.

More than a marketing slogan, we know just how critical the wireless phone and internet services Rogers provides are.

Canadians need to be able to reach their families.

Businesses need to be able to accept payments.

And, most importantly, emergency calls to 911 simply have to work, every time.

To those who were impacted by our outage, I am sorry.

...

When it comes to our own network, we will do our part. And then some.

To guard against a system-wide outage, **we will set a higher standard by physically separating our wireless and internet networks and create an 'always on' network.**

To be frank, this added layer of protection will be expensive. We estimate it will cost at least \$250 million, but know it is the right thing to do.

We will also continue with our plan to invest heavily in reliability. We're spending \$10 billion over the next three years to build out and strengthen our network.

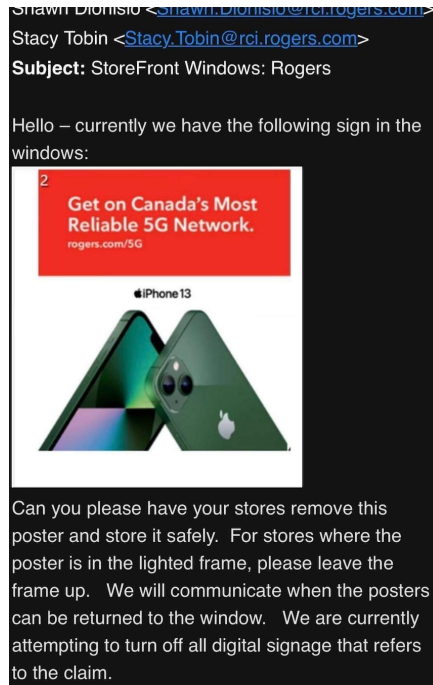
This investment includes additional oversight, more testing and greater use of Artificial Intelligence to ensure upgrades we make to our network work as intended.

Finally, we are partnering with leading technology firms to do a full review of our network systems to learn from the outage and emerge stronger."

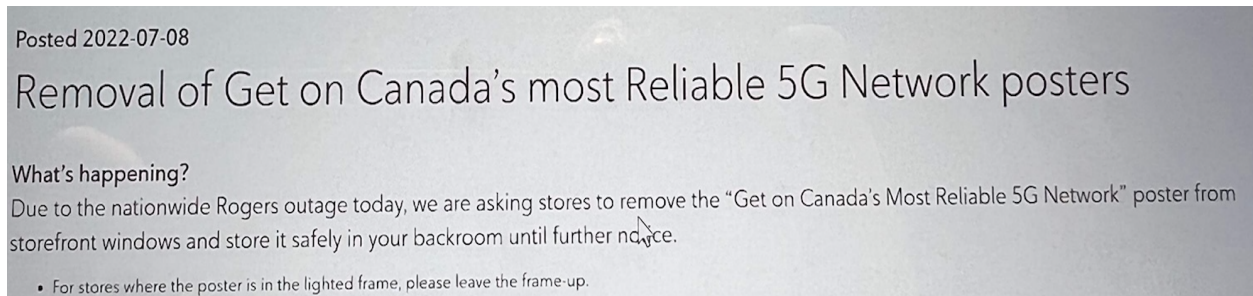
- 11.10 The Applicants note, in particular, that at 11:59 a.m. during the July 25, 2022 House of Commons' Standing Committee on Industry and Technology meeting, the Minister of Innovation, Science and Industry, the Honourable François-Philippe Champagne, declared that "***La négligence est chez Rogers, tout le monde s'entend***" and that none of the representatives from Rogers present at the meeting, including Mr. Staffieri and Ron McKenzie, Rogers' new Chief Technology and Information Officer, denied or contradicted Mr. Champagne's statement. In fact, their testimony confirmed Mr. Champagne's statement;
- 11.11 Applicants emphasize that on July 8, 2022, Kye Prigg, Senior VP at Rogers admitted on national TV that Rogers "experienced a failure in the core network

part of our network” and that Rogers was working in real-time with its “network partners” to resolve the issue. Mr. Prigg repeated working with Rogers “network vendors” in other interviews as well. Mr. Prigg no longer works for Rogers;

- 11.12 On Saturday, July 9, 2022, Ericsson – Rogers’ network partner – publicly stated that it was aware of the outage and was in regular communication with Rogers to restore service, as it appears from **Exhibit P-31**. Clearly, Ericsson’s equipment and services were central to the outage and Ericsson was working with Rogers in order to attempt to re-establish the networks (which took an unreasonable amount of time to fix, representing additional faults committed solidarily by the Defendants);
- 11.13 On July 12, 2022, BNN Bloomberg reported that “the Canadian economy took a \$142 million hit because of the outage”, as it appears from **Exhibit P-32**;
- 11.14 On September 14, 2023, the Canadian Radio-television and Telecommunications Commission (CRTC) confirmed in an email that it hired engineering consultant Xona Partners to provide a report on the Rogers network, and to look into what happened during the outage and whether measures Rogers has since taken can prevent another. Canadian tax payers are paying \$230,000.00 for this investigation, the whole as appears from **Exhibit P-33**;
12. The Applicants bring this action because: **(i)** a credit of two or five days of service is wholly inadequate and does not account for the other damages they and Class members suffered and which the law provides for in such cases (sections 10, 16 and 272 of Quebec’s *Consumer Protection Act* (the “**CPA**”) and does not include the extra charges for roaming and/or international travel “Roam Like Home” type services; **(ii)** Mr. Verdier was misled by Rogers’ marketing, i.e. declarations that it was Canada’s most “*Reliable*” network, contrary to sections 40, 41, 42 and 219 CPA; **(iii)** to hold Rogers accountable for its gross negligence and insouciance, in particular with respect to its obligation under CRTC regulations to make 9-1-1 calls available at all times and which was unavailable to all Class members for close to 24 hours during the outage; and **(iv)** to obtain compensation for individuals and businesses who are not customers of Rogers and who suffered damages as a result of the Rogers outage;
13. With respect to his second claim concerning false representations, the Applicant discloses herewith the internal email sent from Shawn Dionisio, Retail Strategy Lead at Rogers to all Rogers stores on July 8, 2022, instructing them to remove all advertising referring to “*Canada’s Most Reliable 5G Network*” as **Exhibit P-5**:



14. Also with respect to his second claim concerning the false representations, the Applicant discloses a capture of the Rogers Sales Assist (Rogers' internal Point of Sale system) titled "*Removal of Get on Canada's most Reliable 5G Network posters*" dated July 8, 2022 as **Exhibit P-6**:



- 14.1 As mentioned above, on July 13, 2022 (i.e. two days after the initial filing of proceedings in the present case), Mr. Staffieri issued his third public statement again addressed to all "Canadians", Exhibit P-14, extrajudicially admitting that:

"Our network outage last Friday was unacceptable. Simply put, we failed on our promise to be Canada's most reliable network."

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

A) THE FACTS ALLEGED APPEAR TO JUSTIFY THE CONCLUSIONS SOUGHT:

i) Cause of Action #1: Rogers violated ss. 10 and 16 CPA

The situation of Mr. Verdier

15. The Applicant has been a client of Rogers for his wireless (mobile phone and internet) services since approximately June 2020. One of the reasons he contracted with Rogers is because it advertised that it was Canada's most reliable network and this was repeated to him at the Rogers store in the Summer of 2020 when he switched from Bell Mobility to Rogers;
16. The Applicant communicates his contract that was in force with Rogers on July 8, 2022 as **Exhibit P-7**;
17. Like millions of Canadians, when he woke up on the morning of Friday, July 8, 2022, the Applicant's Rogers cellular phone line (mobile phone and internet) was not working;
18. According to many news outlets, the outage began at 2:00 a.m. on July 8, 2022, but "Rogers didn't acknowledge the issue until just before 9:00 a.m. on Friday morning, leaving users in the dark for hours about when they might be able to use their devices again", as it appears from the Global News article communicated as **Exhibit P-8**;
19. The Applicant was one of those left in the dark by Rogers. He noticed that his phone was not connected to a network around 7:30 a.m. and initially thought it an issue unique to him or that there was a problem with his bill payment (which there was not). It was only around 9:00 a.m., that the Applicant learnt through social media and the news that the issue was widespread;
20. In today's world, a cellular phone is an essential service, which is why the Applicant pays Rogers \$140 per month to have access to at all times;
21. However, on July 8, 2022, Rogers did not perform the service stipulated in the contract, contrary to section 16 CPA;
22. Moreover, and as Mr. Staffieri declared in Exhibit P-3, the cause of the network system failure was due to a maintenance update in Rogers' core network, which caused some of its routers to malfunction. This is clearly a consequence of Rogers' own act (i.e. something apparently going wrong when they were performing a maintenance update) and section 10 CPA precludes Rogers from raising a contractual clause that could liberate itself from liability and from the Applicant seeking one or more of the remedies provided for in section 272 CPA;
- 22.1 In its response to the CRTC dated July 22, 2022 (Exhibit P-17), Rogers further elaborated as follows:

It is clear that what matters most is that Rogers ensures this does not happen again. We are conducting a full review of the outage.

Our engineers and technical experts have been and are continuing to work alongside our global equipment vendors to fully explore the root cause and its effects. We will also increase resiliency in our networks and systems **which will include fully segregating our wireless and wireline core networks**. Lastly, we have additionally hired an external review team to further assess and provide insights into the outage. This will involve a complete evaluation of all our processes, including the performance of network upgrades, disaster recovery procedures, and communication with the public.

...

At 4:43AM EDT, a specific coding was introduced in our Distribution Routers which triggered the failure of the Rogers IP core network starting at 4:45AM.

The Outage

The configuration change **deleted a routing filter and allowed for all possible routes to the Internet to pass through the routers. As a result, the routers immediately began propagating abnormally high volumes of routes throughout the core network**. Certain network routing equipment became flooded, exceeded their capacity levels and were then unable to route traffic, causing the common core network to stop processing traffic. As a result, the Rogers network lost connectivity to the Internet for all incoming and outgoing traffic for both the wireless and wireline networks for our consumer and business customers.

- 22.2 Performing such a configuration change without a proper rollback or staging process can only be qualified as gross negligence, as was waiting for such a serious outage to occur before deciding to segregate its wireless and wireline core networks and to “create an always on network”. Indeed, on July 21, 2022, Rogers replaced its Chief Technology Officer effective immediately, as it appears from **Exhibit P-21**. Bell Canada’s CEO publicly declared that Bell’s network was configured in a different way and would have therefore never experienced the Rogers outage (Exhibit P-27);
- 22.3 Applicants hereby allege that given that Ericsson – Rogers’ network partner – was in regular communication with Rogers to restore service on its network on July 8 and 9, 2022, Rogers and Ericsson are solidarily liable for the acts and omission of the other (Exhibit P-31). Ericsson’s domicile is in the district of Montreal, in the province of Quebec, and this Court has jurisdiction to authorize a national class on this basis (article 3148(1) CCQ);
23. On July 8, 2022, the Applicant suffered damages caused by the Defendants that far exceeds the *credit equivalent to two days of service* (Exhibit P-4) (later increased to five days to compensate for “frustration”, Exhibit P-17) that Rogers

unilaterally decided was appropriate after literally paralyzing the country for an entire day;

24. For example, around 4:00 p.m. on July 8, the Applicant drove back from St-Hubert to Blainville. This drive usually takes the Applicant approximately 1 hour to complete, but since the internet on his Rogers phone service was not functioning, he could not use his *Google Maps* application that he generally uses when driving. Without Google Maps directing him to the quickest route (i.e. to avoid traffic), the trip on July 8 took him 90 minutes;
25. Not only did the extra 30 minutes on the road cost the Applicant more money in gas (currently at approximately \$2.00 per litre), but he was extremely stressed because he was stuck in traffic in Montreal and knew that he would not be able to call 9-1-1 in the case of an emergency;
26. Under Telecom Regulatory Policy CRTC 2017-182 dated June 1 2017, Rogers must ensure that its mobile phone customers are able to contact 9-1-1, even if they do not have service, as it appears from said CRTC decision communicated as **Exhibit P-9**;
27. Rogers should have tested its update prior to launching in what is known in IT as “staging”. It also appears that Rogers performed its update without a “rollback”. Regardless of the exact technical reason, this breach can only be qualified as a gross negligence on the part of Rogers;
28. In fact, no Class members were able to access 9-1-1 on July 8, 2022, and the La Presse article titled “*Panne chez Rogers*” further confirms the systemic nature of the issues alleged herein, **Exhibit P-10**:

« Les services d’urgence comme le 911, la disponibilité d’Interac pour réaliser des paiements et des virements, et les services de certains guichets automatiques ont vite été touchés vendredi. »

29. In support of his claim for damages as a member of the Subclass, the Applicant adds that during the lunch hour he (and everyone else at the cafeteria that day) could not use his debit card to buy lunch because, as indicated in Exhibit P-10 and reproduced above, the Interac systems run on the Rogers network and, as such, were not functional on July 8, 2022. This is also confirmed by a CBC article titled “*Rogers says services mostly restored after daylong outage left millions offline*”, communicated as **Exhibit P-11**:

Debit payment services have also been interrupted.

“A nationwide telecommunications outage with a network provider ... is impacting the availability of some Interac services,” a spokesperson for Interac confirmed to CBC News.

“Debit is currently unavailable online and at checkout. Interac

e-transfer is also widely unavailable, impacting the ability to send and receive payments.”

Bell confirmed that it is having no issues on its network, although it says customers are having difficulties connecting to anything on a Rogers network.

30. In this case, the troubles and inconvenience caused as a direct result of Rogers’ fault and negligence as alleged above (failing to ensure that proper safeguards were in place such as a rollback, staging, etc.), exceed the normal inconveniences that a person in the twenty-first century encounters and should be required to accept. Indeed, a full day outage for the entire country because Rogers was negligent in performing its maintenance update (Exhibit P-3) is unprecedented. Minister Champagne has repeatedly publicly declared that the outage was “*unacceptable*” and caused by Rogers’ “*negligence*”, which Rogers has not once denied;
31. The stress and inconvenience experienced by the Applicant and all members do not fall within the category of ordinary social disturbances (this has never happened with Bell or Telus) and therefore constitute compensable damages. After the outage, Bell Canada’s CEO publicly stated that Bell’s network would have never suffered the Rogers outage because: “*Les réseaux sans fil et filaires de Bell utilisent des infrastructures de réseau différentes et sont configurés de telle sorte qu’une perturbation majeure du réseau filaire n’interrompt pas le réseau sans fil national*”, as it appears from **Exhibit P-27**. In fact, in its July 22 response to the CRTC, Rogers qualified the outage as “unprecedented” (P-17), which, by definition, cannot qualify as ordinary;
32. The Applicant is entitled to and hereby claims a reduction of his obligations pursuant to s. 272(c) CPA because Rogers did not perform the service stipulated in the contract, contrary to section 16 CPA. The CPA and article 1474 CCQ prohibit Rogers from limiting or excluding its liability in these circumstances. Section 272 CPA also enables the Applicant to claim damages and punitive damages, which he claims as follows:

Head of damages	Amount
Reduction of obligations:	\$50.00
Troubles and inconvenience:	\$50.00
Punitive damages:	\$100.00
Total:	\$200.00

33. The Applicant believes that these amounts are reasonable, especially given that in its own internal document, Rogers Sales Assist (Exhibit P-6), Rogers gives its

stores the ability and discretion to offer customers a \$50.00 credit “Due to a system issue” and “to apologize for the inconvenience and to try to make it right”:

System Issue: System Outage Coupon tool is enabled in Sales Assist

What's Happening?

Due to a system issue, you're now able to use our System Outage Coupon tool to offer impacted customers a one-time coupon for a \$50 bill credit if they were unable to complete a new activation (NAC) or hardware upgrade (HUP) in your store. It's our way to apologize for the inconvenience and try to make it right when the customer returns to your store.

34. Punitive damages are also appropriate – and important – in this case, especially when comparing Rogers’ conduct with that of Bell and Telus who never experienced such an outage, presumably because their technicians use industry standards and norms prior to performing maintenance updates, as appears from Exhibit P-27;
35. Rogers’ patrimonial situation is significant enough that punitive damages of \$100 per member is appropriate in the circumstances;
 - ii) **Cause of Action #2: Rogers violated sections 40-42 and 219 CPA, section 52 of the Competition Act, by falsely advertising the most “reliable network”**
36. In the Summer of 2020, when he went to Rogers to switch from Bell Mobility, the Applicant was told at the store by Rogers that its network was the most “reliable”. This was one of the reasons he switched from Bell. This same representation about having the most “reliable network” has been repeated by Rogers multiple times since in similar variations;
37. For example, and as alleged at paragraphs 4, 13 and 14 above, Rogers continues to mislead the public with the most recent variation of the advertising: “Canada’s Most Reliable 5G Network”. This was the marketing used by Rogers prior to the Applicant contracting with Rogers again in June 2022 (Exhibit P-7 dated June 12, 2022) and during the performance of the contract. Rogers’ marketing gave him the impression that Rogers did in fact have the “most reliable network”;
38. However, these claims of having the most reliable network turned out to be false;
39. Exhibits P-13, P-5 and P-6 leave no doubt that Rogers made controlled and systemic advertising to the effect that it had the most reliable network, which Rogers’ own management appear to have acknowledged was false by directing all of its stores to remove “the most reliable network” marketing claim on July 8, 2022 and having since removed the claims to this effect from its website as well;

40. The Applicant benefits from an absolute presumption of prejudice because: (1) Rogers violated section 219 CPA until it removed the marketing on July 8, 2022; (2) the Applicant saw the representation (“*Canada’s most reliable 5G network*”) that constituted a prohibited practice; (3) seeing that representation resulted in the formation, amendment or performance of a consumer contract (Exhibit P-7); and (4) a sufficient nexus existed between the content of the representation and the services covered by the contract;
- 40.1 Applicant also hereby alleges that Rogers’ advertng was misleading pursuant to section 52 of the *Competition Act*, and that he suffered damages, as alleged herein, within the meaning of section 36 of the *Competition Act*;
41. Pursuant to section 272 CPA, the Applicant claims the same damages as for the first cause of action, namely:

Head of damages	Amount
Reduction of obligations:	\$50.00
Troubles and inconvenience:	\$50.00
Punitive damages:	\$100.00
Total:	\$200.00

The situation of Mr. Levkovsky (Subclass Member):

- 41.1 Mr. Levkovsky is a Quebec resident and a mobile customer of Videotron (although his claim against Rogers is in extracontractual liability, he specifies that he also has a Fido line in his name that his mother-in-law uses);
- 41.2 On March 4, 2022, Mr. Levkovsky purchased two tickets online (while physically situated in Montreal) for the concert of the singer known as “The Weeknd”, scheduled for July 8, 2022, at 6:00 p.m., at the Rogers Centre in Toronto, as it appears from **Exhibit P-22**;
- 41.3 The Rogers Centre is owned by Rogers;
- 41.4 On July 8, 2022, while still in Montreal, Mr. Levkovsky was able to use his mobile phone for telephone calls and internet, since Videotron did not experience an outage;
- 41.5 On the morning of July 8, 2022, Mr. Levkovsky drove from Montreal to Toronto with his wife, his son and his son’s friend in order for the children to attend *The Weeknd’s* concert. His Videotron mobile Internet connection in Ontario was very

poor and unstable (on and off) because Videotron uses the Rogers network in Ontario;

- 41.6 To their shock, the Rogers Centre cancelled the concert at the very last minute (July 8 at around 5:30 p.m.) as thousands of people were waiting in line. The reason given by the Rogers Centre security personnel for cancelling the concert was that their Rogers Internet service was down and they were unable to scan people's tickets. It was only at 7:46 p.m. that Ticketmaster sent an email to the Applicant containing the following note, as it appears from **Exhibit P-23**:

Hi live event fan,

Due to the nationwide Rogers network outage The Weeknd show planned for this evening at Rogers Centre will be postponed as the venue's operations & infrastructure are not possible until full service is back.

Please hold on to your ticket. Updates on a new date coming soon.

THE WEEKND
ROGERS CENTRE

- 41.7 An article published in the Globe and Mail on July 14, 2022, titled "*Why was the Weeknd's concert called off in Toronto? The doors to Rogers Centre wouldn't open*" provides further details, including how two other concerts held in proximity to the Rogers Centre were not cancelled, as it appears from **Exhibit P-24**:

"Like some 40,000 other fans of The Weeknd, Christine Turcot was expecting to witness the pop star's tour-opening concert at Rogers Centre last Friday. **She had purchased a business-class train seat for the trip from Quebec City and reserved a downtown Toronto hotel room for two nights.** Describing herself as a "hardcore Weeknd fan," the music buff had shelled out nearly \$3,000 for a pair of front-row tickets with VIP lounge access.

"When I have a band or an artist I really love, I go all out," Ms. Turcot told The Globe and Mail. **Now she wants her ticket money back.**

Unfortunately, the Weeknd's hometown concert – the first on his highly anticipated After Hours Til Dawn tour – was called off at the last minute because of the widespread Rogers network outage that day.

...

She's not alone, of course. The disruption of the telecom giant's

internet and cellular service created outrage and chaos for businesses and individuals around the country. **At Rogers Centre – the domed stadium that bears the company’s name and colours – the network failure had an impact on critical venue operations, including security, point-of-sale functions and ticket processing.**

...

Because concert venues have different network infrastructure, **other shows that night were able to go ahead as scheduled. Country music artist Keith Urban and rock legend Roger Waters performed at Budweiser Stage and Scotiabank Arena, respectively.** Both concerts were promoted by Live Nation.

41.8 As a result of Rogers’ gross negligence, including failing to inform the public earlier and transparently about the outage situation (as well as the impact it will have on the concert being held at the Rogers Centre), Mr. Levkovsky suffered the following ascertainable loss:

Head of damages	Amount
Sheraton hotel in Toronto (1 night x 2 rooms at \$224.87 each per night):	\$449.74
Gas from Montreal to Toronto:	\$166.36
Stress, trouble and inconvenience:	\$500.00
Total:	\$1116.10

41.9 Mr. Levkovsky communicates herewith the Sheraton hotel and gas receipts for the amounts claimed above *en liasse* as **Exhibit P-25**;

41.10 Mr. Levkovsky tried, multiple times, to obtain compensation from Rogers, but Rogers categorically refused;

41.11 His first attempt was on or around July 13 or 14, 2022, when he called the Rogers Bank (owned by Rogers) because he used his Rogers credit card to pay for the Sheraton hotel. The number he called was 1-855-775-2265 and the Rogers Bank agent told him that they are not responsible for Rogers’ wireless service and they advised him to contact Rogers Communications directly;

41.12 Mr. Levkovsky then contacted Rogers Communications on around July 13 or 14, 2022 and requested compensation for his expenses and troubles. Rogers refused to compensate him any amount whatsoever (not even for his gas or hotel bills);

- 41.13 He was told by the Rogers telephone customer service agent that Rogers is not responsible for the concert at the Rogers Centre and that he would have to call Ticketmaster for any compensation – which is absurd and in bad faith;
- 41.14 Mr. Levkovsky was dismayed that Rogers Communications refused to assume responsibility for the expenses he incurred due to the fact that the Rogers Centre was unable to scan his tickets (as a result of their 100% dependence on the Rogers network);
- 41.15 For Mr. Levkovsky, this refusal and deflection to Ticketmaster confirmed that Rogers’ many *mea culpas* were insincere and that Rogers had no intention to “*make things right*” (to use the words of Mr. Staffieri in Exhibit P-14);
- 41.16 There can be no doubt that Mr. Levkovsky’s damages are a direct and proximate result of Rogers’ fault and gross negligence;
- 41.17 The Applicants invoke articles 3148 (1), (2), (3) or 3136 C.C.Q. to sue Rogers and Ericsson in the province of Quebec on behalf of all Class and Subclass;
- 41.18 With respect to the criteria of article 3148(2), Rogers owns an establishment in Quebec (6315 Chemin de la Côte-de-Liesse), as it appears from **Exhibit P-26**. Furthermore, Rogers itself referred to the “*national nature*” of the outage (Exhibit P-17), thereby conceding that the dispute includes its activities in Quebec;
- 41.19 Finally, Ericsson is domiciled in Quebec (3148(1) C.C.Q.) and Applicants claim that Ericsson and Rogers are solidarily liable for the reasons alleged herein above. Applicants further add that Rogers has publicly declared that Ericsson is its “vendor for its full network”, as it appears from the Rogers press release of November 10, 2021, communicated in English and French as **Exhibit P-34**;
- “The new collaboration further strengthens **the partnership between Ericsson and Rogers**, which goes back more than 30 years since the launch of wireless services in Canada. Rogers partnered **with Ericsson in 2018 as its 5G vendor for its full network infrastructure, and the companies are working together to roll out Canada’s first 5G standalone core network** building the foundation for true 5G experiences and use cases...”
- 41.20 Rogers confirmed in a subsequent press release dated March 28, 2022, *inter alia*, that its network is “*Built exclusively with network partner Ericsson*”, Applicant communicating **Exhibit P-35**;
- 41.21 Article 3148 C.C.Q. is therefore fulfilled for several reasons, namely:
- (a) Ericsson is domiciled in Quebec (art. 3148 (1) C.C.Q.);

- (b) Rogers and Ericsson (which is domiciled in Quebec) are partners and have exclusively been working together on the development, upkeep, maintenance, updates and repairs to the Rogers' various networks for decades and more recently before, during and after both the April 2021 Rogers outage and the July 2022 Rogers outage. Rogers and Ericsson are therefore solidarily liable herein toward all Class Members in Canada (art. 1525 C.C.Q.);
- (c) Rogers as "mandator" is liable to third persons for acts performed and faults committed by its mandatory Ericsson (domiciled in and working out of Quebec) (2160 C.C.Q.);
- (d) Rogers and Ericsson both have establishments in Quebec and the dispute relates to the activities of Rogers and Ericsson in Quebec, including without limitation the development, upkeep, maintenance, updates and repairs to the networks, the faults committed which led to the outage, and the faults committed in the unreasonable delay to repair the outage (art. 3148 (2) C.C.Q.);
- (e) the national outage and the faults committed in the unreasonable delay to repair the outage were caused by Rogers working together with its exclusive "network partner" Ericsson (domiciled in and working out of Quebec) and therefore, the faults and/or injurious acts and/or omissions were committed by the Defendants in Quebec which affected the entire national class (art. 3148 (3) C.C.Q.);
- (f) obligations arising from the contract were therefore to be performed in Quebec including the development, upkeep, maintenance, updates and repairs to the Rogers' various networks (in order to allegedly make them "Canada's most reliable network"), which obligations were carried out by Defendants Rogers working together with their network partner Defendant Ericsson (domiciled in and working out Quebec), the whole affecting the Class Members and the Rogers' networks across the country; and
- (g) this same factual and jurisdictional issue has already been confirmed by this Honorable Court in the context of the April 2021 Rogers outage in *Amram c. Rogers Communication inc.*, 2024 QCCS 534 (Rogers' Application for Leave to Appeal dismissed: *Rogers Communications inc. c. Amram*, 2024 QCCA 853).

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

- 42. The recourses of the Class and Subclass members raise identical, similar or related questions of fact or law, namely:
 - a) On July 8 [...], 2022, and until its network was fully restored, did Rogers violate sections 10 and 16 CPA, and, if so, are Class members entitled to either a reduction of their obligation, damages and/or punitive damages,

and in what amounts?

- b) In the marketing of its services, did Rogers violate sections 40, 41, 42 or 219 CPA, or section 52 of the Competition Act, by claiming to have Canada's most "reliable" network and, if so, are Class members entitled to either a reduction of their obligation, damages and/or punitive damages, and in what amounts?
- c) Are Subclass members (including non-Rogers customers on July 8 [...], 2022 and until the network was fully restored) who could not operate with their own device or complete transactions/operations because of the Rogers outage on July 8 [...], 2022, and until the network was fully restored, entitled to reparation pursuant to article 1457 of the Civil Code and in what amounts?
- d) Are Rogers and Ericsson solidarily liable for the damages suffered as a result of the Rogers outage from July 8, 2022 and until the network was fully restored?

C) THE COMPOSITION OF THE CLASS

- 43. The composition of the Class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings;
- 43.1 The "Class" is comprised of consumers and businesses in Canada who have a contractual relationship with Rogers for wireless and/or wireline services (including Rogers' subsidiaries and branded entities) and who did not receive their services on July 8, 2022 and until the Rogers network was fully restored;
- 43.2 The "Subclass" is comprised of consumers and businesses in Canada who do not have a contractual relationship with Rogers and who suffered damages as a result of the July 8 outage, including but not limited to:
 - a) those who had a service contract with any Third-Party Internet Providers ("TPIA") who utilize Rogers to provide Internet services to their customers, or with any affiliates or wholesale customers of Rogers;
 - b) those who could not use their debit or credit card to make purchases (such as with Interac) and businesses or people who lost revenue because they could not accept payments or receive orders during this unprecedented outage;
 - c) those who could not attend the concert at the Rogers Centre that was cancelled at the last minute on July 8, 2022;
 - d) travellers who could not use the ArriveCan app;
 - e) those who cannot call 9-11.

- 43.3 The list above is not exhaustive and is meant to provide examples of Canadian individuals and businesses who clearly suffered damages as a result of the July 8 outage and who Rogers did not include or provide for when offering the 5-day compensation for “frustration” (Exhibit P-17);
44. The Applicant conservatively estimates the number of persons included in the Class and Subclass to be in the millions (in Exhibit P-17 Rogers states that it has “over 10.2M” wireless users);
45. The names and addresses of all persons included in the Class are not known to the Applicant, however, are all in the possession of Rogers;
46. Class and Subclass members are very numerous and are dispersed across the province and across Canada;
47. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class member to obtain mandates and to join them in one action;
48. In these circumstances, a class action is the only appropriate procedure for all of the members of the Class to effectively pursue their respective rights and have access to justice without overburdening the court system;

D) THE CLASS MEMBERS REQUESTING TO BE APPOINTED AS REPRESENTATIVE PLAINTIFFS ARE IN A POSITION TO PROPERLY REPRESENT THE CLASS MEMBERS

49. The Applicants request that they be appointed the status of representative plaintiffs for the following main reasons:
 - a) They are members of the Class and have a personal interest in seeking the conclusions that they propose herein;
 - b) They are competent, in that they have the potential to be the mandataries of the action if it had proceeded under article 91 of the *Code of Civil Procedure*;
 - c) Their interests are not antagonistic to those of other Class members;
50. Additionally, the Applicant respectfully adds that:
 - a) He mandated his attorney to file the present application for the sole purpose of having his rights, as well as the rights of the other members, recognized and protected so that they can receive an adequate compensation according to the law;
 - b) He was flabbergasted to learn that Rogers was only offering as compensation a *credit equivalent to two days of service* (Exhibit P-4);
 - c) He has the time, energy, will and determination to assume all the

responsibilities incumbent upon him in order to diligently carry out the action;

- d) He cooperates and will continue to fully cooperate with his attorney;
- e) He has read this Application prior to its court filing;
- f) He understands the nature of the action;

II. DAMAGES

- 51. Rogers has publicly acknowledged that Class and Subclass members have suffered damages (Exhibit P-2, Exhibit P-3 and P-17 are some examples) and have already proposed a *credit equivalent to two days of service* (Exhibit P-4) to Class Members, later increased to 5 days to compensate for the their “frustration”. However, the Applicants evaluate the damages to the Class as significantly more;
- 52. Furthermore, Rogers has offered no compensation whatsoever to Subclass members, such as Mr. Levkovsky, who are non-Rogers customers, despite acknowledging that this group also suffered damages (Exhibit P-2 and Exhibit P-3) and that “*Businesses need to be able to accept payments*” (Exhibit P-20);
- 53. In light of the foregoing, the following damages may be claimed solidarily against the Rogers Defendants by Class members on account of each cause of action pursuant to section 272 CPA (or any other amount to be determined by the Court on the merits):

Head of damages	Amount
Reduction of obligations:	\$50.00
Troubles and inconvenience:	\$50.00
Punitive damages:	\$100.00
Total:	\$200.00

- 54. The Subclass members claim damages solidarily against the Defendants pursuant to article 1457 CCQ in an amount to be determined on the merits, with a complete evidentiary record;

III. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

- 55. The action that the Applicants wish to institute on behalf of the members of the Class is an action for a reduction of obligations pursuant to s. 272(c) CPA, and in damages and punitive damages pursuant to s. 272 CPA and s. 52 of the *Competition Act*;

56. The action that the Applicants wish to institute on behalf of the members of the Subclass who were non-Rogers customers on July 8-9, 2022 is an action in civil liability pursuant to article 1457 CCQ;
57. The conclusions that the Applicants wish to introduce by way of an originating application are:

ALLOW the class action of the Representative Plaintiffs and the members of the Class and Subclass against the Defendants;

CONDEMN the Defendants, solidarily, to pay the Class members an amount to be determined on the merits and **ORDER** that this condemnation be subject to collective recovery;

CONDEMN the Defendants, solidarily, to pay the Class members [...] punitive damages in an amount to be determined on the merits and **ORDER** that this condemnation be subject to collective recovery;

CONDEMN the Defendants, solidarily, to pay the Subclass members an amount to be determined on the merits and **ORDER** that this condemnation be subject to collective recovery;

CONDEMN the Defendants, solidarily, to pay interest and the additional indemnity on the above sums according to law from the date of service of the Application to authorize a class action and **ORDER** that this condemnation be subject to collective recovery;

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

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

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

IV. JURISDICTION

58. The Applicant requests that this class action be exercised before the Superior Court of the province of Quebec, in the district of Montreal.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

1. **AUTHORIZE** the bringing of a class action, for the **Class** members, in the form of an originating application for a reduction of obligations pursuant to s. 272(c) CPA, and in damages and punitive damages pursuant to s. 272 CPA,

as well as an action in civil liability pursuant to article 1457 CCQ for the **Subclass** members who were non-Rogers customers on July 8-9, 2022;

2. **APPOINT** the Applicants the status of Representative Plaintiffs of the persons included in the Class and Subclass herein described as:

Class:

All consumers and businesses in Canada who had a service contract with Rogers, Fido Mobile, Cityfone or Chatr Mobile and who did not receive wireline or wireless services (including 9-1-1 services) as of July 8, 2022 and until the services were fully restored;

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

Subclass:

All natural and legal persons in Canada who could not operate with their own device or make personal or business transactions/operations (including paying with or receiving payment by Interac), because of the Rogers outage on July 8, 2022 and until the Rogers network was fully restored;

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

or any other class to be determined by the Court;

3. **IDENTIFY** the principal questions of fact and law to be treated collectively as the following:

- a) On July 8 [...], 2022, and until its network was fully restored, did Rogers violate sections 10 and 16 CPA, and, if so, are Class members entitled to either a reduction of their obligation, damages and/or punitive damages, and in what amounts?
- b) In the marketing of its services, did Rogers violate sections 40, 41, 42 or 219 CPA, or section 52 of the *Competition Act*, by claiming to have Canada’s most “reliable” network and, if so, are Class members entitled to either a reduction of their obligation, damages and/or punitive damages, and in what amounts?
- c) Are Subclass members (including non-Rogers customers on July 8 [...], 2022 and until the network was fully restored) who could not operate with their own device or complete transactions/operations because of the Rogers outage on July 8 [...], 2022, and until the network was fully restored, entitled to reparation pursuant to article 1457 of the Civil Code and in what amounts?

- d) Are Rogers and Ericsson solidarily liable for the damages suffered as a result of the Rogers outage from July 8, 2022 and until the network was fully restored?

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

1. **ALLOW** the class action of the Representative Plaintiffs and the members of the Class and Subclass against the Defendants;
 2. **CONDEMN** the Defendants, solidarily, to pay the Class members an amount to be determined on the merits and **ORDER** that this condemnation be subject to collective recovery;
 3. **CONDEMN** the Defendants, solidarily, to pay the Class members [...] punitive damages in an amount to be determined on the merits and **ORDER** that this condemnation be subject to collective recovery;
 4. **CONDEMN** the Defendants, solidarily, to pay the Subclass members an amount to be determined on the merits and **ORDER** that this condemnation be subject to collective recovery;
 5. **CONDEMN** the Defendants, solidarily, to pay interest and the additional indemnity on the above sums according to law from the date of service of the Application to authorize a class action and **ORDER** that this condemnation be subject to collective recovery;
 6. **ORDER** the Defendants, solidarily, to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;
 7. **ORDER** that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;
 8. **CONDEMN** the Defendants, solidarily, to bear the costs of the present action including the cost of exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;
5. **ORDER** the publication of a notice to the class members in accordance with article 579 C.C.P., pursuant to a further order of the Court, and **ORDER** the Defendants to pay for said publication costs;
6. **FIX** the delay of exclusion at thirty (30) days from the date of the publication of the notice to the members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgment to be rendered herein;

7. **DECLARE** that all members of the Class that have not requested their exclusion, be bound by any judgment to be rendered on the class action to be instituted in the manner provided for by the law;
8. **RENDER** any other order that this Honourable Court shall determine;
9. **THE WHOLE** with costs including publication fees.

Montreal, July 5, 2024

(s) LPC Avocats

LPC AVOCATS

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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 Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff in the office of the **Superior Court** in the judicial district of **Montreal**.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the Applicant in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Change of judicial district

You may ask the court to refer the originating Application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the plaintiff.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

Transfer of application to Small Claims Division

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

Calling to a case management conference

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

Exhibits supporting the application

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

- Exhibit P-1:** *En liasse*, extracts of the CIDREQ for the Defendants;
- Exhibit P-2:** *En liasse*, July 8, 2022 public statement issued by Tony Staffieri, President and CEO at Rogers, in English and French;
- Exhibit P-3:** *En liasse*, July 9, 2022 public statement issued by Tony Staffieri, President and CEO at Rogers, in English and French;
- Exhibit P-4:** Tweet from the official Rogers Twitter account from July 9, 2022 at 1:51 PM, stating that it's a "*credit equivalent to two days of service*";
- Exhibit P-5:** Copy of the email sent from Shawn Dionisio, Retail Strategy Lead at Rogers to all Rogers stores on July 8, 2022, instructing them to remove all advertising referring to the "*Canada's Most Reliable 5G Network*";
- Exhibit P-6:** Screen capture of the Rogers Sales Assist (Rogers' internal Point of Sale system) titled "*Removal of Get on Canada's most Reliable 5G Network posters*" dated July 8, 2022;

- Exhibit P-7:** Copy of the Applicant's contract in force with Rogers on July 8, 2022 (dated June 12, 2020);
- Exhibit P-8:** Copy of Global News article from July 8, 2022 titled "*Rogers says wireless services restored for 'vast majority' as mass outage drags on*";
- Exhibit P-9:** Telecom Regulatory Policy CRTC 2017-182 dated June 1 2017;
- Exhibit P-10:** Copy of La Presse article from July 8, 2022, titled "*Panne chez Rogers*";
- Exhibit P-11:** Copy of CBC news article from July 8, 2022 titled "*Rogers says services mostly restored after daylong outage left millions offline*";
- Exhibit P-12:** Screen capture taken on July 10, 2022 of the website www.rogers.com/5g;
- Exhibit P-13:** *En liasse*, picture of the Rogers' advertising on a billboard located at 5415 Côte-de-Liesse road in Montreal, taken by a Class member on July 11, 2022;
- Exhibit P-14:** Copy of July 13, 2022 letter titled "*An Update from Rogers President and CEO*";
- Exhibit P-15:** Copy of the email sent to Mr. Verdier on July 13, 2022;
- Exhibit P-16:** Copy of July 24, 2022 letter titled "*Message de la part du président et chef de la direction de Rogers*";
- Exhibit P-17:** Copy of Rogers' redacted response to the CRTC dated July 22, 2022;
- Exhibit P-18:** Copy of July 13, 2022 CTV News article titled "*Rogers' five-day refund 'wholly inadequate' legal expert says*";
- Exhibit P-19:** Copy of portions of the transcripts of the July 25, 2022 hearing before the House of Commons;
- Exhibit P-20:** Copy of document titled "*Opening remarks: Standing Committee on Industry and Technology (INDU) on July 25, 2022*";
- Exhibit P-21:** Copy of July 21, 2022 Financial Post article titled "*Rogers replaces technology chief after massive outage draws fire*";

- Exhibit P-22:** Copy of Mr. Levkovsky's Ticketmaster receipt for the July 8, 2022 concert in Toronto;
- Exhibit P-23:** Copy of the email received from Ticketmaster on July 8, 2022 at 7:46 p.m.;
- Exhibit P-24:** Copy of the article published in the Globe and Mail on July 14, 2022, titled "Why was the Weeknd's concert called off in Toronto? The doors to Rogers Centre wouldn't open";
- Exhibit P-25:** Copy of Sheraton hotel and gas receipts from July 8-9, 2022;
- Exhibit P-26:** *En liasse*, extract from the property assessment roll and the tax statement for the property owned by Rogers situated at 6315 Chemin de la Côte-de-Liesse;
- Exhibit P-27:** *En liasse*, article publié dans La Presse le 4 août 2022 intitulé « Le réseau de BCE résisterait à des perturbations, assure son patron » et la transcription du « BCE Q2 2022 Results Conference Call »;
- Exhibit P-28:** July 8, 2022, CTV news articles titled "Rogers outage affecting some Montreal municipal services";
- Exhibit P-29:** July 10, 2022 (updated July 11) CBC News article titled "Rogers customers grow increasingly frustrated on 3rd day without cell, internet service";
- Exhibit P-30:** CIDREQ for the Ericsson Canada Inc.;
- Exhibit P-31:** Reuters article dated July 9, 2022, titled "Rogers service restored after Canada-wide outage, blames router malfunction";
- Exhibit P-32:** BNN Bloomberg article dated July 12, 2022, titled "Rogers pledges five-day credits as Bay Street weighs outage impact";
- Exhibit P-33:** CBC article dated September 14, 2023, titled "CRTC hires private company to investigate 2022 Rogers outage";
- Exhibit P-34:** Rogers press of November 10, 2021, titled "Rogers joins Ericsson's global Startup 5G program to commercialize 5G use cases";
- Exhibit P-35:** Rogers press release from March 28, 2022, titled "Rogers launches Canada's first commercially available 5G Standalone Network".

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.

Montreal, July 5, 2024

(s) LPC Avocats

LPC AVOCATS

Mtre Joey Zukran

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

TO: ERICSSON CANADA INC.
8275 Route Transcanadienne
Montreal, Quebec, H4S 0B6

Defendant

TAKE NOTICE that Applicants' *Re-Amended Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiffs* will be presented before the Superior Court at 1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6, on a date and time to be set by the Court.

GOVERN YOURSELVES ACCORDINGLY.

Montreal, July 5, 2024

(s) LPC Avocats

LPC AVOCATS

Mtre Joey Zukran

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500-06-001192-224

(Class Action)
SUPERIOR COURT
DISTRICT OF MONTREAL

ARNAUD VERDIER and
ALEXANDRE LEVKOVSKY

Applicants

v.

ROGERS COMMUNICATIONS CANADA INC.
ROGERS COMMUNICATIONS INC.
FIDO SOLUTIONS INC.
ERICSSON CANADA INC.

Defendants

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

COPY FOR: ERICSSON CANADA INC.
8275 Route Transcanadienne, Montreal, Quebec, H4S 0B6

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BL 6059

N/D: JZ-239
