

eBOOKS CANADIAN PRICE FIXING CLASS ACTION SETTLEMENT

Notice of Certification/Authorization and Proposed Canadian Settlement

www.eBooksCanadianSettlement.ca

To all persons in Canada who purchased eBooks between April 1, 2010 and March 10, 2017

THE LAWSUITS

Class action lawsuits were commenced in Ontario, British Columbia and Quebec (“**Actions**”) against the Defendants Apple Inc., Apple Canada Inc. (together, “**Apple**”) and Hachette Book Group Canada Ltd, Hachette Book Group Inc., HarperCollins Canada Limited, HarperCollins Publishers LLC, Macmillan Publishers, Inc., Penguin Group (USA) LLC (now Penguin Random House LLC), Penguin Canada Books, Inc. (now Penguin Random House Canada Limited), and Simon & Schuster Canada, a division of CBS Canada Holdings Co. (the “**Publishers**”) alleging they conspired to fix, maintain, increase or control the price of eBooks sold by them in Canada, contrary to Part VI of the *Competition Act*, the common law and the Civil Code of Quebec (the “**Alleged Conspiracy**”). The Actions allege that, because of the Alleged Conspiracy, the price of eBooks sold in Canada **between April 1, 2010 and March 10, 2017** was artificially high, and seek, among other things, reimbursement of the alleged overcharges. The Defendants deny those allegations, and the claims have not been proven in Court.

THE PUBLISHERS’ SETTLEMENT

A settlement agreement was reached with the Publishers in September 2014 (the “**Publishers’ Settlement**”). The Publishers’ Settlement was approved by the Ontario, Quebec and British Columbia Courts in November 2014. Its benefits included a payment of \$3,175,000 CAD (the “**Publishers’ Settlement Proceeds**”), the net amount of which has been kept in trust for the benefit of the Publishers’ Settlement Class Members pending further Court approval.

THE PROPOSED SETTLEMENT

A settlement agreement has now been reached with Apple (the “**Proposed Settlement**”). Settlement benefits include payment of \$12,000,000 CAD (the “**Settlement Proceeds**”) by Apple. The Proposed Settlement must be approved by the Ontario and Quebec Courts (the “**Approval Courts**”) to become effective.

CERTIFICATION / AUTHORIZATION

For the purposes of implementing the Proposed Settlement, the Actions were certified/authorized as class actions by the Approval Courts. This means that the determinations made in the Actions will automatically apply to all persons who purchased eBooks in Canada **between April 1, 2010 and March 10, 2017**, unless they take steps to exclude themselves from the Actions (see below under “**Your Options**”). Certification/authorization will be set aside if the Proposed Settlement is not approved by the Approval Courts.

SETTLEMENT APPROVAL HEARINGS

The requests to approve the Proposed Settlement will take place in hearings on **November 30, 2022, at 10:00am (Ontario)** and **December 14, 2022, at 9:15am (Quebec)**. At the same time, Class Counsel will seek approval of their contingency agreements with the Plaintiffs/Petitioners and a percentage fee to be deducted from the Settlement Proceeds with other court-approved costs. The hearings will be heard by judicial videoconference -

in Ontario on Zoom at:

<https://ca01web.zoom.us/j/61479568088?pwd=QjJyb0x2M2dOVXRvcGxUeFh1akhldz09>

in Quebec on Teams at:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_OTRhMTRhN2QtNWQ3Ny00OTg2LWJINmItN2U3NzVmMjZiMTdk%40thread.v2/0?context=%7b%22Tid%22%3a%223f6dec78-7ded-4395-975c-6edbb7d10b16%22%2c%22Oid%22%3a%22f2de948d-851d-47f4-9953-579062f424eb%22%7d

THE PROPOSED SETTLEMENT AFFECTS YOUR RIGHTS

If the Proposed Settlement is approved, it will affect all persons in Canada who purchased eBooks **between April 1, 2010 and March 10, 2017** except those who opt out of the Actions, the Defendants and certain related parties (“**Settlement Class Members**”). Under the Proposed Settlement, Settlement Class Members **RELEASE** Apple and the Publishers from claims regarding the purchase of eBooks in Canada **between April 1, 2010 and March 10, 2017**, and commit to discontinue or dismiss other proceedings.

INDIVIDUAL MONETARY BENEFIT

If the Proposed Settlement is approved the net Publishers Settlement Proceeds and the net Settlement Proceeds from the Proposed Settlement will be combined (the “**Total Net Settlement Amount**”) and distributed by means of a Distribution Protocol approved by the Approval Courts.

Where information regarding Eligible eBook purchases is provided directly to the Claims Administrator by Apple and/or any Co-operating eRetailer, a net Individual Monetary Benefit will be calculated based on that data and either directly credited to Settlement Class Members’ active account(s) with Apple or the Co-operating eRetailer or be distributed directly by way of eTransfer to the email on file with Apple or the Co-operating eRetailer.

Where information regarding Eligible eBook purchases is not provided to the Claims Administrator by other Third Party eRetailers, the Individual Monetary Benefit in respect of Eligible eBooks purchased from those Third Party eRetailers will be calculated based on claims submitted by Settlement Class Members through a claims process and approved by the Claims Administrator. Their Individual Monetary Benefit will be distributed by eTransfer to the email they provide in the claims process (or by cheque, if requested, but only if their Individual Monetary Benefit amounts to \$20 CAD or more).

In the event that the entirety of the Total Net Settlement Amount is not paid to the Settlement Class Members in accordance with the Distribution Protocol approved by the Approval Courts, the remaining portion, net of what is payable to eligible class action help funds, shall be paid to one or more not-for-profit organizations approved by the Approval Courts.

YOUR OPTIONS

If you want to participate in the Actions and benefit from this Proposed Settlement if approved, you do not need to do anything at this time. All persons in Canada who purchased Defendants’ eBooks **between April 1, 2010 and March 10, 2017** are automatically included in the Settlement Class.

If you do **NOT** want to participate in the Proposed Settlement, you **MUST** exclude yourself by completing and sending an Opt-Out Request Form to the Claims Administrator **by no later than November 11, 2022** (the “**Opt-Out Deadline**”). Opt-Out Request Forms are available at **www.eBooksCanadianSettlement.ca** or from Class Counsel. If you opt out, you will keep any right to bring your own lawsuit, but will not receive the benefit of this Proposed Settlement. Please note, if you do opt out, limitation periods that may bar your claim will begin to run again. If you do not opt out of the Actions by the Opt-Out Deadline, you will be bound by the Proposed Settlement if it is approved by the Courts and will not be able to opt out of the Actions in the future.

To comment on or object to the Proposed Settlement, you can write to Class Counsel, or make your representations during the Settlement Approval Hearings. Please do not write directly to the presiding judges or the Approval Courts. Written comments and objections will be provided to the Approval Courts by Class Counsel. The Approval Courts cannot change the terms of the Proposed Settlement, they can only approve it or not.

The time to exclude yourself from the Publishers’ Settlement has passed.

DO I NEED TO PAY ANYTHING?

You do not need to pay anything out of your pocket. The Plaintiffs/Petitioners entered into contingency agreements with Class Counsel providing for payment of up to 1/3 of amounts recovered in the Actions and reimbursement of disbursements incurred to prosecute the Actions. Class Counsel will be asking the Approval Courts to approve fees of 25% of the Settlement Proceeds in the Proposed Settlement, plus disbursements they have incurred in the Actions, plus applicable taxes. The Approval Courts will determine the amount to be paid to Class Counsel from the Settlement Proceeds.

HOW DO I CONTACT CLASS COUNSEL?

To ask questions about the Proposed Settlement or Actions, contact:

- For British Columbia residents: Luciana P. Brasil of Branch MacMaster LLP care of mornelas@branmac.com
- For Quebec residents: Normand Painchaud of Sylvestre Painchaud SENCRL care of n.painchaud@spavocats.ca
- For all others: Heather Rumble Peterson of Strosberg Sasso Sutts LLP care of ebooks@strosbergco.com

This Notice is a summary. For more information about the Proposed Settlement or to read the settlement agreement, please visit www.eBooksCanadianSettlement.ca or contact Class Counsel.