

IPHONE POWER MANAGEMENT CLASS ACTION
LONG-FORM NOTICE OF CERTIFICATION AND SETTLEMENT HEARING
www.SmartphonePerformanceSettlement.ca

**READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.
YOU MAY NEED TO TAKE PROMPT ACTION.**

This notice is directed to:

All individuals, both corporate and natural persons, who are or were domiciled in Canada, excluding persons who are Quebec residents as of **June 15, 2023**, who:

- (i) purchased and/or owned an Apple iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7 or 7 Plus smartphone; and
- (ii) installed or downloaded iOS version 10.2.1 or later (for iPhone 6, 6 Plus, 6s, 6s Plus, and SE) or iOS version 11.2 or later (for iPhone 7 and 7 Plus) **before December 21, 2017**,

and their estates, administrators or other legal representatives, heirs or beneficiaries but excluding:

- (i) directors, officers, and employees of Apple or its subsidiaries and affiliated companies, as well as Apple's legal representatives, heirs, successors, or assigns;
- (ii) any member of the judiciary presiding over this matter; and
- (iii) any other individuals whose claims already have been adjudicated to a final judgment.

(the "**Class Members**").

Purpose of this Notice

The purpose of this Notice is to advise Class Members of the certification and settlement of the proposed class action proceeding styled as *Nicholas Stephen Crema v. Apple Inc. and Apple Canada Inc.*, British Columbia Supreme Court Vancouver Registry Action No. S-188008 (the "**Class Action**") brought on behalf of the Class Members. This notice provides Class Members with information about how to opt out of the Class Action and settlement. **Class Members who wish to opt out must do so by no later than December 27, 2023.**

If you are a Class Member and wish to participate in the settlement of the Class Action, no further action is required on your part at this time.

Certification of the Class Actions

In 2018, proposed class proceedings were commenced against the defendants Apple Inc. and Apple Canada Inc. (together, "**Apple**");

- (i) in the British Columbia Supreme Court styled as *Crema v. Apple Inc. and Apple Canada Inc.* (S-188008) and *Strohmaier v. Apple Inc. and Apple Canada Inc.* (S-186592);
- (ii) in the Ontario Superior Court of Justice styled as *Gaudio v. Apple Inc. and Apple Canada Inc.* (479/18CL), *Collins Swartz v. Apple Inc. and Apple Canada Inc.* (CV-18-591399), and *Saleh v. Apple Inc. and Apple Canada Inc.* (CV-18-592677-00CP);

- (iii) in the Saskatchewan Court of King's Bench styled as *Blythman v. Apple Inc. and Apple Canada Inc.* (QB6 302 OT 2018); and
- (iv) in the Alberta Court of King's Bench styled as *Hibanaura v. Apple Inc. and Apple Canada Inc.* (1803 02688)

(the “**Proceedings**”).

The Proceedings relate to allegations of (i) performance mitigation features of iOS operating software versions 10.2.1, 10.3, 11 and/or 11.2 for iPhones; (ii) defects causing the iPhones to prematurely age, degrade and shut down unexpectedly; (iii) defects in the performance of the iPhone batteries; and (iv) misrepresentations or intentional concealment concerning the foregoing.

On **June 28, 2023**, the British Columbia Supreme Court certified the Class Action as a multi-jurisdictional class proceeding for settlement purposes and authorized Nicholas Stephen Crema to act as representative plaintiff on behalf of the Class Members.

The Settlement

Apple has agreed to pay between \$11,137,500 CAD and \$14,427,500 CAD (the “**Settlement Funds**”) in consideration of the full and final settlement of the claims of Class Members, including but not limited to the Class Action and the Proceedings (the “**Settlement**”). In return for the payment of the Settlement Funds, the Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Class Action will be fully and finally released and the Class Action will be dismissed. The Settlement is not an admission of liability, wrongdoing, or fault on the part of Apple, which denies the allegations against it. The Settlement is subject to approval of the British Columbia Supreme Court, and Class Members have a right to object to the Settlement.

The Settlement Funds will be paid out in accordance with the Distribution Protocol in the Settlement Agreement, a partial summary of which follows. For more details, please refer to the Settlement Agreement available at **www.SmartphonePerformanceSettlement.ca**.

Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings will be paid out of the Settlement Funds.

Apple will provide a cash payment to each Class Member who submits an Approved Claim. To receive a cash payment, Class Members must submit a valid Claim Form for each iPhone device. The Claim Form requires each Class Member to provide, among other things, the Class Member's name, mailing address, iPhone serial number and a declaration under oath by the Class Member stating that (i) their iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7, or 7 Plus iPhone ran iOS version 10.2.1 or later (for iPhone 6, 6 Plus, 6s, 6s Plus, and SE) or iOS version 11.2 or later (for iPhone 7 and 7 Plus) **before December 21, 2017**, and (ii) they experienced diminished performance on that device after the relevant iOS version was installed or downloaded.

The cash payment per Approved Claim depends on the actual number of approved claims and other factors, including Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings. Under the proposed settlement, Apple will pay a minimum of \$11,137,500 CAD (the “**Minimum Settlement Amount**”) and a maximum of \$14,427,500 CAD (the “**Maximum Settlement Amount**”). Under no circumstances will any of the Minimum Settlement Amount revert to Apple.

Apple will provide a cash payment for each Approved Claim, provided that Apple will not pay more than the Maximum Settlement Amount. If the total value of Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings exceeds the Maximum Settlement Amount, the value of each Approved Claim will be reduced on a *pro rata*

basis. Additionally, under the Settlement, if the total value of Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings does not exceed the Minimum Settlement Amount, the value of each Approved Claim may be increased on a *pro rata* basis, up to a maximum of \$150 CAD per device.

In the event that the Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings are less than the Minimum Settlement Amount after the value of each Approved Claim is increased on a *pro rata* basis up to \$150 CAD per device, any amounts that remain undistributed will be allocated *cy-près* to a charity or charities chosen by Apple and approved by the court if needed.

What are your options?

- Stay in Class Action

If the Settlement is approved by the court, all Class Members will be bound by its terms unless they have already opted out of the Class Actions. You do not have to do anything to be included in the Class Action. If any benefits, including any settlement funds, become available for distribution to the Class Members, you will be notified about how to ask for a share. You will be legally bound by all orders and judgments of the court, and you will not be able to sue Apple about claims that were (or could have been) asserted in the Class Action or the Proceedings.

- Stay in the Class Action and Object to the Settlement or Class Counsel Fees

The hearing to decide whether to approve the Settlement and the payment of Class Counsel Fees will take place on **January 29, 2024** at the courthouse at 800 Smithe Street, Vancouver, British Columbia.

If you want to object to the proposed Settlement with Apple or the payment of Class Counsel Fees, you should do so by setting out your objection in writing addressed to Class Counsel at the address below. Your objection must be received **by no later than 5 PM local time on December 27, 2023**. If you opt out of the Class Action, you may not object to the Settlement or Class Counsel Fees.

- Opt Out of the Class Action

If you want to preserve your right to sue Apple on your own over the claims advanced in the Class Action, then you need to opt out from the Class Action. If you opt out, you cannot get any money or other benefits from the Class Action and you will not be represented by Class Counsel.

Any Class Member who does not wish to participate in the Settlement must opt out of the Class Action by sending a duly completed Opt-Out Form to the Claims Administrator at the contact information below, which must be received **by no later than December 27, 2023** (the “**Opt-Out Deadline**”). Those who opt-out will not be bound by the Settlement nor by the release of claims against Apple contained in the Settlement Agreement. The Opt-Out Form can be downloaded at **www.SmartphonePerformanceSettlement.ca**. No Class Members will be permitted to opt out of the Class Action after the Opt-Out Deadline.

If you opt out of the Class Action and you wish to bring or maintain your own lawsuit against Apple, you will take full responsibility for initiating or continuing your claim, and for the legal steps necessary to protect your claims. If the Settlement is approved by the court and you have not opted out, you will not be able to bring or maintain any other claim or legal proceeding against Apple relating to the claims that were (or could have been) advanced in the Class Action or the Proceedings.

Copies of Settlement Documents

Copies of the Settlement Agreement, Distribution Protocol, the Claim Form and the orders of the Court may be found on the Claims Administrator's website **www.SmartphonePerformanceSettlement.ca** or by contacting Class Counsel or the Claims Administrator via the contact information provided below.

Class Counsel

The law firms of Garcha & Company and Rochon Genova LLP are Class Counsel. Inquiries for Class Counsel may be directed to:

Garcha & Company
Attention: iPhone Power Management Class Action
Mail: #405 – 4603 Kingsway, Burnaby, BC V5H 4M4
Email: iphonesettlement@garchalaw.ca
Telephone (toll-free): 1-844-878-0444

Rochon Genova LLP
Attention: Jon Sloan
Mail: 121 Richmond Street West, Suite #900, Toronto, ON M5H 2K1
Email: jsloan@rochongenova.com

Claims Administrator

Epiq Class Action Services Canada Inc.
Attention: iPhone Power Management Class Action
P.O. Box 507 STN B
Ottawa ON K1P 5P6
Email: info@SmartphonePerformanceSettlement.ca
Fax: 1-866-262-0816

Interpretation

Capitalized terms not defined herein are as defined in the Settlement Agreement.

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

PLEASE DO NOT CONTACT THE COURT WITH INQUIRIES ABOUT THE CLASS ACTION OR THE SETTLEMENT.

All inquiries should be directed to the Claims Administrator or Class Counsel.

DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE BRITISH COLUMBIA SUPREME COURT