

C A N A D A

(Class Action)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT

N^o : 500-06-001148-218

N [REDACTED] D [REDACTED], residing and domiciled
at [REDACTED]
[REDACTED]
[REDACTED]

Plaintiff

v.

**COOPÉRATIVE DE SERVICES
ENFANCEFAMILLE.ORG**, legal person
having its domicile at 214-7000 av. du
Parc, in the City and District of Montréal,
Province of Québec, H3N 1X1, also doing
business under the names “La Place 0-5”
and “The Place 0-5”

-and-

**PROCUREUR GÉNÉRAL DU QUÉBEC –
MINISTÈRE DE LA FAMILLE**, Direction
générale des affaires juridiques Ministère
de la Justice, 1200, route de l'Église, 8e
étage, in the City and District of Québec,
Province of Québec, G1V 4M1

Defendants

**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION
(Art. 574 C.C.P. and following)**

**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT OF QUEBEC,
SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PLAINTIFF STATES THE
FOLLOWING:**

INTRODUCTION

1. Plaintiff wishes to institute a class action on behalf of the following group, of which Plaintiff is a member, namely:

All persons in Québec:

(i) whose personal or financial information held by Coopérative de services EnfanceFamille.org or La Place 0-5 was compromised in a data breach which occurred on or about May 8, 2021, or

(ii) who received an email from Coopérative de services EnfanceFamille.org or La Place 0-5, dated on or about May 13, 2021, informing them of such data breach;

or any other Group(s) or Sub-Group(s) to be determined by the Court;

(hereinafter Class Members are collectively referred to as “**Class Member(s)**”, “**Group Member(s)**”, the “**Group**”, the “**Class**”, “**User(s)**” or “**Client(s)**”).

2. Defendant (“**Coopérative de services EnfanceFamille.org**”, the “**Cooperative**” or “**La Place 0-5**”) is a cooperative having its headquarters in the City of Montréal, the whole as more fully appears from the *Registraire des entreprises* (CIDREQ) report regarding said Defendant, communicated herewith as **Exhibit R-1**.
3. The Cooperative, a cooperative constituted under the *Cooperatives Act*, chapter C-67.2, is the organisation responsible for the management of the public gateway service to recognized Québec daycares.
4. The Cooperative is a legal person according to Article 3 of the *Cooperatives Act*.
5. The Cooperative has the mandate to manage the La Place 0-5 gateway service to Québec daycares on behalf of Defendant the *Ministère de la Famille* of Quebec.
6. Defendants are therefore solidarily liable toward the Users regarding the loss of private information detailed below.
7. According to an email sent to Plaintiff and Class Members, it appears that a data breach occurred on or about May 8, 2021 (the “**Data Breach**”), the whole as more fully appears from the email sent by The Place 0-5 to Plaintiff and presumably other Class Members, communicated herewith as **Exhibit R-2**. The R-2 email states the following:

Informations sur le vol de données/Update on the data theft

Cher parent, (*english follows*)

La Coopérative Enfance Famille, gestionnaire de La Place 0-5, communique avec vous aujourd'hui pour faire le point sur la cyberattaque qui a ciblé notre service de guichet unique d'accès aux services de garde reconnus au Québec.

Selon nos informations, un pirate informatique se serait introduit par une brèche chez notre fournisseur informatique le samedi 8 mai 2021. Quelques heures après avoir appris la survenance de cette intrusion, les spécialistes en cybersécurité ont rapidement colmaté la brèche afin de prévenir tout autre incident.

Malgré cette intervention rapide, il semblerait qu'environ 5 000 dossiers d'utilisateurs comportant des données personnelles (dates de naissance, noms, numéros de téléphone, adresse, NIREC et dates d'inscription) auraient été subtilisés.

Vu les circonstances, le site laplace0-5.com a été temporairement fermé pour faciliter le travail de vérification et d'enquête qui se déroule actuellement, le tout en étroite collaboration avec la Sûreté du Québec, le Centre gouvernemental de cyberdéfense et le ministère de la Famille. Cette collaboration sera suivie par un audit complet afin d'assurer une réouverture sécuritaire du site dans les meilleurs délais.

Pour les parents qui ont été touchés par ce vol d'information, nous veillerons à communiquer directement avec eux afin qu'ils puissent prendre les précautions appropriées.

Nous regrettons vivement cette situation et les inquiétudes qu'elle a pu causer à nos usagers. La confidentialité des renseignements personnels est au cœur des préoccupations de la Coopérative Enfance Famille et de ses équipes. Nous veillerons à rétablir notre service de façon sécuritaire dès qu'il nous sera possible de le faire.

Pour toutes questions, nous vous invitons à contacter notre service à la clientèle par courriel à info@laplace0-5.com ou par téléphone au +1 844-270-5055. (N.B.: Prière de noter que tant que notre site

demeurera fermé, notre service à la clientèle ne pourra accéder à votre dossier.)

En vous remerciant pour votre compréhension et votre patience,

L'équipe de la Coopérative Enfance Famille, gestionnaire de La Place 0-5

English version

Dear Parent,

Coopérative Enfance Famille, the organization that manages La Place 0-5, is contacting you today to bring you up-to-date on the cyberattack that targeted our gateway service to recognized Québec daycares.

According to our information, a hacker breached the defences of our technology provider on Saturday, May 8, 2021. A few hours after learning of the intrusion, cybersecurity specialists rapidly sealed the breach to prevent any further incident.

Despite their quick intervention, it seems that approximately 5,000 user files containing personal data (dates of birth, names, telephone numbers, addresses, NIRECs and registration numbers) were stolen.

In the circumstances, the laplace0-5.com website has been temporarily closed to facilitate the checking and investigation work now being conducted in close collaboration with La Sûreté du Québec, the government cyberdefence centre and the Ministère de la Famille. This collaboration will be followed by a full audit to ensure that the site can be reopened securely as quickly as possible.

Parents affected by this theft of information will be contacted by us directly so that they can take appropriate precautions.

We profoundly regret this situation and the worry it has caused our users. The confidentiality of personal information is a matter of paramount concern to Coopérative Enfance Famille and its teams. We are working to reestablish our service securely as soon as we are able.

If you have any questions, please contact our customer service by email at info@laplace0-5.com or by telephone at +1 844-270-5055. (NB: Please note that, for as long as our site remains closed, our customer service will not be able to access your file.)

Thanking you for your understanding and your patience,

The team at Coopérative Enfance Famille, manager of La Place 0-5

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8. Plaintiff and thousands of other parents in the province of Québec provided Defendants with their personal information, including but not limited to their name, address, telephone number, email address, date of birth, NIRECs, registration number, etc.
9. The Data Breach was first discovered on May 9, 2021 when the *LaPresse* website received documents emanating from the breached “The Place 0-5” database and when *LaPresse* asked the Cooperative to comment on this breach on Monday May 10, 2021, the whole as more fully reported in the *LaPresse* article entitled “*Fuite massive de données personnelles*”, dated May 11, 2021, communicated herewith as **Exhibit R-3**.
10. The R-3 *LaPresse* article states the following *inter alia*:

“Les données ont été subtilisées par « quelqu’un dont, visiblement, les objectifs étaient politiques », estime le ministre Lacombe. Il tire cette conclusion à partir d’une première analyse des serveurs de la Place 0-5, le guichet unique géré par la Coopérative Enfance Famille en vertu d’une entente avec Québec.

Cette analyse a été effectuée lundi par la coopérative, en collaboration avec le ministère de la Famille. Les deux organismes ont décidé de la faire à la suite de questions posées par La Presse au sujet de documents intrigants qu’elle a obtenus dimanche. Tout porte à croire que ces documents sont le fruit du vol.

Deux documents sont en cause. Ils émanent de la base de données de la Place 0-5. Une poignée d’employés de la coop et du ministère de la Famille y ont accès. Rien n’indique que la fuite provient d’employés pour le moment. Ce serait plutôt l’œuvre d’un pirate informatique.

Selon nos informations, l’individu est parvenu à avoir accès à des données

hébergées par InMedia, fournisseur technologique de la coopérative.”

11. On May 11, 2021, the government and the opposition at the National assembly of Québec reacted to the Data Breach, as reported in the *LaPresse* article entitled “Legault envisage de rapatrier les données personnelles”, communicated herewith as **Exhibit R-4**.
12. The R-4 *LaPresse* article state the following *inter alia*:

“François Legault a déploré que la Coopérative Enfance Famille ait prévenu le gouvernement lundi seulement du vol de données survenu deux jours plus tôt. Or, c’est *La Presse* qui, lundi matin, a appris à la coopérative qu’il y avait eu probablement une fuite. Le premier ministre a rappelé que son gouvernement était en train de resserrer la loi pour mieux protéger les renseignements personnels.

Pour la cheffe libérale Dominique Anglade, « le gouvernement ne peut pas dire qu’il n’a pas une part de responsabilité » dans cette fuite. Il est responsable de la protection des données, même s’il a confié la gestion des inscriptions au guichet unique à un « sous-traitant ». « On souhaite que rapidement le ministre fasse le point sur la sécurité », a-t-elle soutenu.

(...)

Il y a de toute évidence des lacunes en matière de sécurité avec la plateforme de la Place 0-5, estime Luc Lefebvre, président de Crypto.Québec, un organisme à but non lucratif qui fait la promotion des meilleures pratiques en matière de protection des données. Il relève par exemple qu’un panneau d’administration est offert sur le web. « Quand ça existe, il faut que ce soit sécurisé. Et dans ce cas-ci, ça ne l’était pas », a-t-il expliqué, précisant qu’il est ainsi possible de multiplier les requêtes pour arriver à se connecter à la plateforme.”

13. The Data Breach involves at least 5,000 files which have indeed been downloaded by the hacker. The database accessed by the hacker contained approximately 86,948 files, according to an email sent by the hacker which was reported by a further *LaPresse* article dated May 13, 2021, a copy of which article is communicated herewith, as **Exhibit R-5**
14. The R-5 *LaPresse* article cites the hacker’s email as following:

“Or, à 21 h 25, une heure avant de quitter la plateforme web, le pirate a envoyé un

courriel à Myriam Lapointe-Gagnon, à partir d'une adresse électronique anonyme créée avec le service ProntonMail.

L'individu a écrit :

« Bonjour Myriam,

« Je ne veux pas dévoiler mon identité donc j'utilise ce courriel. J'ai accès à l'administration de La Place 0-5, je peux te dire qu'il n'y a pas 51 000 enfants en attente comme le dit La Presse, mais plutôt 86 948 PARENTS dont AU MOINS 1 enfant est en attente (cela ne compte pas les enfants pré-inscrits avant la naissance), voir la capture d'écran ci-jointe. Ajoute à cela les parents qui ne s'inscrivent tout simplement pas sur La Place 0-5 compte tenu de son inefficacité totale, et nous sommes bien au-delà des 100 000 enfants en attente.

« Certains attendent depuis 2016.

« À toi de voir ce que tu fais avec ces infos, tout ce que je peux te dire c'est que 51 000 c'est vraiment loin de la réalité.

« Ci-joint 5000 parents dans la liste d'attente.

« Bien cordialement. » ”.

15. As appears from the hacker's email cited in the R-5 article, the hacker had already forwarded a sample of the larger stolen database to a third party.
16. Plaintiff files further new articles reporting on the Data Breach as **Exhibit R-6**, *en liasse*.
17. According to Defendant Cooperative, it was on or about May 10, 2021 that said Defendant apparently learned that its records and client information had been accessed and downloaded by an unauthorized third party or hacker on May 8, 2021 (the "**Data Breach**"), the whole as more fully appear from two press releases issued by the Cooperative de services Enfant Famille dated May 11, 2021 and May 12, 2021, communicated herewith as **Exhibit R-7**, *en liasse*. The press releases confirm *inter alia* the following:

“Déclaration de la Coopérative Enfance
Famille sur une fuite de données de La
Place 0-5

NOUVELLES FOURNIES PAR
COOPERATIVE ENFANCE FAMILLE
Mai 11, 2021, 08:37 ET

MONTRÉAL, le 11 mai 2021 /CNW Telbec/ - Le lundi 10 mai 2021 à 11h15, la direction de la Coopérative Enfance Famille, gestionnaire de La Place 0-5, a été informée qu'une personne non autorisée avait en sa possession une liste d'enfants en attente d'une place sur La Place 0-5, incluant des renseignements confidentiels. À la suite des vérifications immédiates qu'elle a effectuées, la Coopérative a appris qu'une brèche chez son fournisseur technologique est en cause et que 5 000 dossiers d'enfants sont concernés. La Coopérative collabore activement avec la Sûreté du Québec, le Centre gouvernemental de cyberdéfense et le ministère de la Famille.

(...)

Le pirate informatique a téléchargé une liste de 5 000 enfants en attente d'une place. Cette liste est susceptible de contenir des informations confidentielles telles que : le nom des parents, les numéros de téléphone, le nom de l'enfant, sa date de naissance, sa date d'inscription sur La Place 0-5. Les mécanismes de protection mis en place par la Coopérative Enfance Famille ont permis de limiter l'extraction des données à 5 000 enfants. Les mots de passe n'ont pas été compromis et les systèmes informatiques de la Coopérative ne sont pas touchés par cet incident.

(...)

À propos de la Coopérative Enfance Famille

Créée en 2003, la Coopérative Enfance Famille a été le premier organisme au Québec à proposer un système central informatisé de gestion de listes d'attente. Gestionnaire de La Place 0-5, désignée guichet unique d'accès aux places en services de garde éducatifs à l'enfance du Québec en 2013 par le ministère de la Famille, elle regroupe depuis septembre 2018 la totalité des services de garde reconnus, subventionnés et non subventionnés. La Place 0-5 simplifie ainsi la vie des familles en centralisant toute l'information nécessaire à la recherche de places en services de garde reconnus au Québec.
www.laplace0-5.com

SOURCE COOPERATIVE ENFANCE FAMILLE

(...)

« La Place 0-5 communiquera aujourd'hui
avec les 86 000 parents d'enfants en attente

NOUVELLES FOURNIES PAR
COOPERATIVE ENFANCE FAMILLE
Mai 12, 2021, 11:43 ET

MONTRÉAL, le 12 mai 2021 /CNW Telbec/ - La Coopérative Enfance Famille enverra une communication dès aujourd'hui aux 86 000 parents qui ont un dossier d'enfant en attente sur La Place 0-5, dossiers ayant potentiellement été visualisés par le pirate informatique. La Coopérative enverra également une lettre recommandée aux parents des 5 000 enfants dont les données ont été volées d'ici la fin de la semaine.

Pour rappel, un pirate informatique s'est introduit par une brèche chez leur fournisseur informatique le samedi 8 mai. Quelques heures après avoir appris cette intrusion, la brèche a été colmatée, mais tous les accès à La Place 0-5 ont été fermés préventivement pour faciliter le travail de vérification et des tests de sécurité plus poussés. (...)

18. These said press releases were not issued in English, although Defendants know and knew that many Class Members do not understand or do not fully understand the French language.
19. As appears from these press releases and the R-2 email, the unauthorized third-party hacker indeed accessed and downloaded Class Members' personal information including their name, address, telephone number, email address, date of birth, and their birth certificate NIRECs and registration number.
20. The NIRECs are defined as :

“Numéro d'identification unique inscrit au registre de l'état civil, attribué à une personne née au Québec.

Note(s) : Connue aussi sous la forme abrégée NIREC, le numéro d'inscription au registre de l'état civil se trouve sur l'acte de naissance d'une personne,

émis par le Directeur de l'état civil du Québec. Dans certains cas, le NIREC est nécessaire pour les citoyens qui veulent s'inscrire (ou inscrire leur enfant) à certains programmes ou services du gouvernement.”,

the whole as appears from the Portail Québec website “Thésaurus de l'activité gouvernementale”, communicated herewith as **Exhibit R-8**.

21. The information contained in this Data Breach is highly sensitive, very personal, and can be used by hackers or other third parties to commit fraud, identity theft, or otherwise make fraudulent credit applications.
22. The Defendants even failed to make it clear in the above press releases whether it was the parents and/or the children which are victims of the Data Breach, adding to the Class Members' confusion and fear.
23. Despite having proof that information from its databases had been downloaded by an unethical hacker, the Cooperative de services Enfance Famille, which manages a public service on behalf of the Defendant Quebec government, is not providing the Class Members with any insurance coverage or any Equifax or TransUnion credit monitoring services or other fraud alert protections.
24. There is presently no indication as to how many notification emails bounced back as undelivered, ended up in the Class Members' spam/junk folders and/or were otherwise not read by the Class Members, making said users still at great risk of fraud and identity theft (having no knowledge of this risk).
25. Personal information is a valuable commodity. There is a “cyber black-market” available for criminals to openly post personal information on a number of Internet websites in what is known as the “dark web”. This demand increases the likelihood of Class Members falling victim to identity theft.
26. The “dark web” is a part of the internet that is not indexed by search engines and has been described as a place where a “hotbed” of criminal activity occurs because of its difficulty to trace user activity.
27. When a data breach affecting thousands of users occurs, Defendant had the obligation to immediately and accurately notify its Users in order to help them prevent further fraud, identity theft, financial losses, losses of time, stress and inconvenience.
28. This lawsuit stems from Defendants failure to protect its Users and to follow these obligations.

29. Defendants clearly failed to implement the proper steps and required IT security measures in order to safeguard and protect the Class Members' information.
30. For example, the Cooperative did by not protect its administration panel available on the La Place 0-5 website, as mentioned by an IT specialist in the R-4 article cited above.
31. In addition, by choosing not to immediately and automatically activate the credit monitoring services offered by Equifax Canada and TransUnion (the two credit agencies operating in Canada) and by not immediately and automatically posting the proper fraud alerts for all Class Members with said credit agencies, Defendants are clearly negligent and chose to save money instead of helping protect the Class Members files and identity.
32. Furthermore, the Defendants have not undertaken to indemnify the Class Members for damages suffered and have also not provided insurance coverage for losses incurred as a result of the Data Breach.
33. Class Members have been and/or will be exposed to fraud and/or identity theft. Harm to victims of the Data Breach includes without limitation fraudulent charges on their accounts, disbursements incurred such as for purchasing extra insurance, placing a fraud alert on their credit file, loss of time and expenses related to: (a) finding fraudulent charges; (b) cancelling and reissuing cards, bank accounts, or other documentation; (c) credit monitoring and identity theft prevention; (d) imposition of withdrawal and purchase limits on compromised accounts; and (e) the general nuisance and annoyance of dealing with all these issues resulting from the Data Breach.
34. On top of actual monetary losses related to fraud and identity theft, Plaintiff and the Class Members have already and/or will continue to experience stress, anxiety, fear, inconvenience and/or loss of time due to the theft of their personal information, which has made Plaintiff and the Class Members potential targets for fraud and/or identity theft.
35. The Class Members have suffered or will suffer certain additional inconveniences and damages including but not limited to the following:
 - a) Delays in the processing of any future requests or applications for credit in the future;
 - b) The obligation to closely monitor their accounts for possible fraud for all periods subsequent to the loss of information, for many months or years;

- c) The obligation to be even more attentive than normally necessary concerning the communication of their personal information since they are at threat of social engineering and phishing, due to the higher possibility of fraudulent activity caused by Defendants' loss of the information;
 - d) The obligation to inform their financial institutions of the loss of the information by the Defendants and to deal with said financial institutions in order to reduce risk of fraud as much as possible. In this regard, certain Class Members have and/or will close their accounts and open new accounts in order to protect themselves, which will cause further loss of time, inconvenience and costs;
 - e) Obtaining and reviewing their credit reports, regularly, in order to look for unauthorized transactions or fraud;
 - f) A negative effect on their credit score.
 - g) The steps required to order a new replacement birth certificate for themselves and/or their children as a result of the Data Breach, which included the birth certificate NIRECs and registration numbers.
36. Many Class Members have also paid or will pay certain fees or costs in order to further protect themselves, such as in order to activate a credit monitoring service or in order to purchase fraud insurance or alerts, title or other insurance, to change their personal information such as requesting new birth certificates, driver's licence numbers or Social Insurance Numbers, for credit protection consulting services, etc. Defendants are solely and solidarily responsible for these costs or fees paid by the Class Members and for the inconvenience caused to Class Members in this regard.
37. Plaintiff invokes *inter alia* the following sections of provincial and federal legislation which apply under the circumstances and Plaintiff respectfully submits that the mere fact that the personal information was entrusted to the Defendants and subsequently lost by Defendants as detailed above constitutes an unlawful violation of the Class Members' fundamental rights, which makes Defendants liable to pay compensatory, moral and punitive damages:
- a) Sections 3, 35, 36, 37 and 1621 of the *Civil Code of Quebec*, S.Q. 1991, c. 64;
 - b) Sections 5 and 49 of the *Charter of Human Rights and Freedoms*, CQRL, c. C-12;

- c) Sections 1, 2, 10, 13 and 17 of the *Act Respecting the Protection of Personal Information in the Private Sector*, CQRL, c. P-39.1;
- d) Sections 2, 3, 5 and 11 of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c. 5, as well as its sections 4.1, 4.3, 4.7 to 4.7.4 of its Schedule 1;
- e) Sections 53, 54, 56, 59 of the *Act respecting Access to documents held by public bodies and the Protection of personal information*, c. A-2.1

FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PLAINTIFF

- 38. Plaintiff reiterates the above allegations in the present section, as though recited at length.
- 39. Plaintiff like, other Class Members, provided Defendant with her information in order to have a place in a recognized Quebec daycare for her daughter.
- 40. As mentioned above, Plaintiff received the email from Defendant Cooperative on May 13, 2021 (Exhibit R-2).
- 41. Since Defendants had not even confirmed whether the hacker had stolen the private information of the parents, the children, or both, Plaintiff immediately signed up for a 1 year Equifax Canada credit monitoring service, in order to help protect herself from fraud and identity theft. She paid a total of \$199.95 for this yearly service, which amount she claims from Defendant as damages stemming directly from the Data Breach and the receipt of the R-2 notification email from the Defendants, the whole as more fully appears from her Equifax Canada email confirmation, communicated herewith as **Exhibit R-9**.
- 42. The Plaintiff and the Class Members, in good faith, were reasonably justified in assuming that Defendants would properly safeguard their personal information as part of the use of a public service, which Defendants clearly did not.
- 43. As a result of learning that her personal information was lost by Defendants, Plaintiff experienced and continues to experience anxiety, stress, inconvenience, loss of time, and/or fear due to the loss of personal information.
- 44. In order to save money, Defendants have failed or refused to mandate and pay for TransUnion and Equifax Canada to immediately and automatically activate credit

monitoring and fraud alerts for all affected Class Members such as Plaintiff, including their children (who typically have their own Social Insurance Numbers of course and therefore their own credit files).

45. All fees payable to TransUnion or Equifax Canada in order to activate these alerts are hereby claimed by Plaintiff and the Class Members from Defendants as damages.
46. TransUnion and Equifax Canada are the two (2) only credit agencies in Canada, both of which Defendants failed to contact immediately about the Data Breach affecting Plaintiff and other Class Members.
47. In addition, considering that the personal information of over 86,000 Quebec parents and children have been accessed by the hacker, it will take much longer that 1 to 2 years for the thieves to use and/or sell all of the stolen client information. Defendants are clearly responsible to indemnify and hold the Class Members harmless of all losses and damages suffered since the Data Breach.
48. Plaintiff and the Class Members were legally forced to use Defendants' services in order to secure daycare spots for their children, and they were forced to provide their personal information to Defendants in order to secure the daycare spots.
49. Defendants had the obligation to ensure, by the most technologically sophisticated means possible and available, that said information was protected and could not be accessed. Defendants failed in this regard and failed to secure this private and highly sensitive information (as mentioned in the R-4 article) and their negligence and carelessness facilitated the Data Breach, making Defendants liable to pay compensatory, moral and punitive damages.

Punitive Damages:

50. For all of the reasons more fully detailed above, which are reiterated as though recited at length in the present section, Plaintiff respectfully submits that Defendants were grossly and/or intentionally negligent and are liable to pay punitive damages to the Class Members.
51. In fact, without limiting the generality of the forgoing, Defendants were grossly negligent and/or intentionally negligent when they:
 - a. did not follow or properly implement an effective data security industry standard to protect the Class Members' personal information, which information The

Place 0-5 allowed to be accessed and downloaded from an external server by unauthorized parties;

- b. failed to promptly and clearly notify the Plaintiff and the Class Members of the Data Breach;
 - c. failed to properly ensure that Plaintiff and Class Members are protected by credit monitoring services by both Equifax Canada and TransUnion and failing to post fraud alerts on the Class Members' credit files immediately after the Data Breach;
 - d. failed to detect the Data Breach itself, until the media contacted them about it, the whole as reported in the R-3, R-4 and R-5 articles;
 - e. waited until after the media had exposed the fact that the personal information of thousands of The Place 0-5 Users was accessed and stolen before notifying some Class Members, the whole as reported in the R-3, R-4 and R-5 articles and as admitted in the R-2 email;
 - f. failed to even provide protection (Equifax or TransUnion) to Class Members;
 - g. failed to offer indemnification for losses suffered by Class Members.
52. Considering the above and considering the fact that Defendants have violated various laws which have been enacted in order to protect the Class Members' personal and/or financial information, and given the fact that to Defendants' knowledge and insistence the Class Members were forced to use this service in order to secure greatly needed daycare spots for their children in the Quebec program, Defendants are liable to pay punitive damages to all of the Class Members due to the loss of private information itself, aside from any other compensatory and moral damages suffered by the Class Members.
53. Defendants' above detailed actions qualify the fault as intentional which is a result of wild and foolhardy recklessness in disregard for the rights of the Class Members, with full knowledge of the immediate and natural or at least extremely probable consequences that its action would cause to the Class Members.
54. Defendants' negligence has shown a malicious, oppressive and high-handed conduct that represents a marked departure from ordinary standards of decency. In that event, punitive damages should be awarded to Class Members.

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

55. Plaintiff reiterates the above allegations in the present section, as though recited at length.
56. Class Member had their personal information lost by Defendants as described hereinabove, including without limitation names, email addresses, home address, date of birth, phone numbers, NIRECs and registration numbers (Exhibit R-2).
57. Class Members suffered damages as a result of receiving the R-2 emails.
58. Some Class Members are the children of other Class Members, which children were to be registered in a daycare program.
59. Class Member has or will experience stress, anxiety, inconvenience, loss of time, and/or fear due to the loss of personal information.
60. Class Member had and have to closely monitor their accounts and credit files/reports, looking for possible fraud from now on and for all periods subsequent to the loss of information.
61. Class Member will be inconvenienced by any safety measures that may become necessary in order to prevent further fraud exposure, such as signing up for credit monitoring service, posting an alert on their accounts or credit files, changing their personal information or account numbers (including birth certificate), transferring money from one account to another, closing and opening accounts, paying for and dealing with NSF or other bank charges or interest, monitoring credit reports, etc.
62. Furthermore, Class Member may be required to pay costs or fees in order to sign up for such credit monitoring, to post an alert on their accounts or credit files, to change their personal information, to purchase insurance, to hire consultants or professionals, or in order to otherwise protect themselves from further fraud exposure for many subsequent years.
63. The Class Members' credit score has and/or will be negatively affected.
64. Moreover, as mentioned above, it is likely that many Class Members have not been notified of the loss of their information, making them still at great risk of fraud or identity theft. Indeed, sending mass email inevitably leads to bounced or undelivered emails.

65. Every Class Member can still fall victim to fraud or identity theft, in the future, due to Defendants' negligence in the safekeeping of their personal information and negligence in the way it handled itself after being made aware of this Data Breach.

CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

66. The composition of the Group makes it difficult or impracticable to apply the rules for mandates to sue on behalf of others or for consolidation of proceedings (Article 575 (3) C.C.P.) for the following reasons.
67. As mentioned above, it appears that Class Members' full names, email addresses, home address, date of birth, phone numbers, NIRECs and other information had been lost, stolen or otherwise compromised as a result of the Data Breach.
68. Class Members are numerous and are scattered across the entire province since Defendant operate a gateway service for all the recognized Québec daycares.
69. As mentioned above, there are at least 86,948 files which were breached or accessed in the Data Breach.
70. In addition, given the costs and risks inherent in an action before the Courts, many people will hesitate to institute an individual action against the Defendants. Even if the Class Members themselves could afford such individual litigation, the Court system could not as it would be overloaded. Further, individual litigation of the factual and legal issues raised by the conduct of the Defendants would increase delay and expense to all parties and to the Court system.
71. Moreover, a multitude of actions instituted risks leading to contradictory judgments on issues of fact and law that are similar or related to all Class Members.
72. 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.
73. In these circumstances, a class action is the only appropriate procedure for all of the Class Members to effectively pursue their respective rights and have access to justice.
74. The damages sustained by the Class Members flow, in each instance, from a common nucleus of operative facts, namely Defendants' negligence, and fault.

75. The claims of the Class Members raise identical, similar or related issues of law and fact (Article 575 (1) C.C.P.), namely:
- (a) Did Defendants commit a fault regarding the storage and the safe-keeping of the personal information of the Class Members?
 - (b) Did Defendants commit a fault by delaying the notification to Class Members that a data breach had occurred?
 - (c) Did Defendants commit a fault due to the deficiencies of the notices given to Class Members about the data breach?
 - (d) Are Defendants liable to pay compensatory damages, moral damages or punitive damages to the Class Members, as a result? And if so, in what amounts?
76. The interests of justice favour that this application be granted in accordance with its conclusions.

NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

77. The action that Plaintiff wishes to institute for the benefit of the Class Members is an action in damages.
78. The facts alleged herein appear to justify the conclusions sought by the Plaintiff (Article 575 (2) C.C.P.), namely the following conclusions that Plaintiff wishes to introduce by way of an originating application:

GRANT the Class Action of Plaintiff on behalf of all the Class Members against Defendants;

CONDEMN Defendants solidarily to pay to the Class Members compensatory damages for all monetary losses and moral damages caused as a result of Defendants' loss of Class Members' information, and **ORDER** collective recovery of these sums;

CONDEMN Defendants solidarily to pay to the Class Members punitive damages for the unlawful and intentional interference with their right to privacy and **ORDER** collective recovery of these sums;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Quebec* and with full costs and expenses including experts' fees and publication fees to advise Class Members;

79. Plaintiff suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:
- a) Defendant Cooperative's domiciled is in the District of Montréal;
 - b) Plaintiff resides in the District of Montréal;
 - c) A great number of Class Members such as Plaintiff reside in the judicial District of Montreal and/or provided their personal and financial information to Defendants in the District of Montréal;
 - d) A great number of Class Members such as Plaintiff used Defendants' gateway service and/or their website to attempt to reserve a place in a recognized Québec daycare for their children and complete the reservation, the whole from and in the judicial District of Montréal;
 - e) Defendants through their website carry on business in the District of Montreal;
 - f) The R-2 notification email was received by Plaintiff and many other Class Members in the District of Montreal;
 - g) The undersigned attorneys representing the Plaintiff and the proposed Group practice in the District of Montreal.
80. Plaintiff, who is requesting to be appointed as Representative Plaintiff, is in a position to properly represent the Class Members (Article 575 (4) C.C.P.), since:

- a) Her personal information was provided to Defendants and was lost by Defendants as described hereinabove, Plaintiff having received the Exhibit R-2 notification emails confirming that her personal information was in the breached database;
- b) She has already and will continue to suffer anxiety, inconvenience, stress, loss of time, and fear, as well as out of pocket expense, as a result of said loss of information, as detailed above;
- c) She may in the future fall, victim to fraud and/or identity theft because of Defendants' loss of her personal information;
- d) She understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interest of the Class Members;
- e) She is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class Counsel in this regard and Plaintiff is ready and available to manage and direct the present action in the interest of the Class Members that Plaintiff wishes to represent;
- f) Plaintiff is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class Members;
- g) Her interests are not antagonistic to those of other Class Members;
- h) She has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intends to keep informed of all developments;
- i) She has given the mandate to the undersigned attorneys to post the present matter on their firm website in order to keep the Class Members informed of the progress of these proceedings and in order to more easily be contacted or consulted by said Class Members;
- j) She, with the assistance of the undersigned attorneys, is ready and available to dedicate the time necessary for this action and to collaborate with other Class Members and to keep them informed.

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

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present Application;

AUTHORIZE the bringing of a class action in the form of an Application to institute proceedings in damages in the District of Montreal;

APPOINT the Plaintiff as the Representative Plaintiff representing all persons included in the Class herein described as:

All persons in Québec:

(i) whose personal or financial information held by Coopérative de services EnfanceFamille.org or La Place 0-5 was compromised in a data breach which occurred on or about May 8, 2021, or

(ii) who received an email from Coopérative de services EnfanceFamille.org or La Place 0-5, dated on or about May 13, 2021, informing them of such data breach;

or any other Group(s) or Sub-Group(s) to be determined by the Court;

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

(a) Did Defendants commit a fault regarding the storage and the safe-keeping of the personal information of the Class Members?

(b) Did Defendants commit a fault by delaying the notification to Class Members that a data breach had occurred?

(c) Did Defendants commit a fault due to the deficiencies of the notices given to Class Members about the data breach?

(d) Are Defendants liable to pay compensatory damages, moral damages or punitive damages to the Class Members, as a result? And if so, in what amounts?

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

GRANT the Class Action of Plaintiff on behalf of all the Class Members against Defendants;

CONDEMN Defendants solidarily to pay to the Class Members compensatory damages for all monetary losses and moral damages caused as a result of Defendants' loss of Class Members' information, and **ORDER** collective recovery of these sums;

CONDEMN Defendants solidarily to pay to the Class Members punitive damages for the unlawful and intentional interference with their right to privacy and **ORDER** collective recovery of these sums;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Quebec* and with full costs and expenses including experts' fees and publication fees to advise Class Members;

DECLARE that all Class Members who have not requested their exclusion from the Class in the prescribed delay to be bound by any Judgment to be rendered on the class action to be instituted;

FIX the delay of exclusion at 30 days from the date of the publication of the notice to the Class Members;

ORDER the publication or notification of a notice to the Class Members in accordance with Article 579 C.C.P., within sixty (60) days from the Judgment to be rendered herein in digital edition of the LaPresse, the Journal de Montreal, the Journal de Quebec, and the Montreal Gazette, and **ORDER** Defendants solidarily to pay for all said publication/notification costs;

ORDER that said notice be posted and available on the home page of Defendants' various websites, Facebook page(s), and Twitter account(s), including without

limitation the www.laplace0-5.com website, and **ORDER** Defendants to send the notice by email with proof of receipt and by direct mail to all Class Members;

THE WHOLE with costs including without limitation the Court filing fees herein and all costs related to preparation and publication of the notices to Class Members.

MONTREAL, MAY 14, 2021

(s) Lex Group Inc.

Lex Group Inc.

Per: David Assor and Joanie Lévesque
Class Counsel / Attorneys for Plaintiff
4101 Sherbrooke St. West
Westmount, (Québec), H3Z 1A7
Telephone: 514.451.5500 ext. 321
Fax: 514.940.1605

