

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

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

THE CLASS ACTION

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

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

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

THE CLASS MEMBERS

Who is a class member?

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

How do I participate in this class action?

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

Can I intervene in this class action?

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

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

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

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

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

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

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

OPTING OUT

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

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

If you chose to opt out.

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

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

If you do nothing and therefore do not opt out.

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

How do I opt out?

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

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

You must send your letter no later than on **November 30, 2023** to the following address:

Clerk of the Superior Court of Québec

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

CLASS COUNSEL

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

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

Toll-free: 1 888 987-6701
Telephone: 514-987-6700
Email: info@belleaulapointe.com

Are there fees for the class members?

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

FOR MORE INFORMATION ON THIS CLASS ACTION

You can consult the judgment authorizing the class action at the following at:
<https://www.belleaulapointe.com/recours-collectif/flo-health/>.

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

Option consommateurs

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

Toll-free: 1 888 412-1313

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The reference for this class action file is:

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