

<p>EMILY CUNNING <i>Plaintiff</i></p> <p>-vs- FITFLOP LIMITED <i>Defendant</i></p>	<p>Superior Court of Québec District of Montreal No. 500-06-000629-127</p>
<p>J. M. Murray <i>Plaintiff</i></p> <p>-and- FITFLOP LIMITED <i>Defendant</i></p>	<p>Ontario Superior Court of Justice Commenced in Ottawa Court File No. 14-60155</p>

CANADIAN CLASS ACTION SETTLEMENT AGREEMENT

Made as of July 5, 2016
(the “**Execution Date**”)

I. Preamble and Recitals:

1. **WHEREAS** this settlement agreement (the “**Settlement Agreement**”) is entered into by and among (i) Plaintiff Emily Cunning and Plaintiff J. M. Murray on behalf of themselves and the classes defined below and (ii) FitFlop Limited (“**FitFlop**”);
2. **WHEREAS** the Settlement Agreement shall be submitted to the Superior Court of Quebec (the “**Quebec Court**”) for approval;
3. **WHEREAS** the parties shall seek to discontinue the class action filed with the Ontario Superior Court of Justice (the “**Ontario Court**”);
4. **WHEREAS** the approval of the Quebec Court and the discontinuance of the class proceeding filed with the Ontario Court are conditions of the Settlement Agreement;
5. **WHEREAS** the Quebec Court has already authorized a class action on behalf of all Quebec residents who have purchased FitFlop footwear (“*toutes les personnes résidant au Québec qui ont acheté des chaussures FitFlop*”);

6. **WHEREAS** a Statement of Claim has been filed with the Ontario Court seeking a class action on behalf of all Canadian residents, excluding residents of Quebec, who have purchased FitFlop footwear;
7. **WHEREAS** class counsel and defence counsel have engaged in good faith, constructive settlement discussions for several months and **WHEREAS** the parties knew about, approved and were kept informed of these ongoing discussions;
8. **WHEREAS** the named plaintiffs and their counsel believe that the claims asserted in the underlying class action litigation have some merit and that the evidence developed to date supports those claims;
9. **WHEREAS** FitFlop has denied vigorously, and continues to deny, each and every allegation of liability and wrongdoing, and asserts that it has substantial factual and legal defences to all the claims alleged and that such claims are without merit;
10. **WHEREAS** FitFlop has concluded that further conduct of the class action litigation would be protracted and expensive, and that it is desirable that this litigation be fully and finally settled in the manner and upon the terms and conditions set out in the Settlement Agreement;
11. **WHEREAS**, without admitting any wrongdoing or liability whatsoever, FitFlop accepts the terms of the Settlement Agreement provided that all issues relating to the subject-matter of the class action litigation are hereby completely resolved and released;
12. **WHEREAS** the Canadian settlement fund shall not exceed \$400,000;
13. **WHEREAS** it is understood that, although the class proceedings filed in Quebec and Ontario seek injunctive relief, such relief has already been provided in the context of the Stipulation of Settlement entered into by Plaintiffs Ariana Rosales and Charlice Arnold and Defendant FitFlop USA, LLC in case number 3:11-cv-00973-W-KSC (the "**U.S. Settlement**");
14. **WHEREAS** FitFlop nonetheless consents to the same injunctive relief in the context of the present settlement, namely:

For a period of five (5) years from April 28, 2014, FitFlop, directly or indirectly through any corporation, partnership, subsidiary, division, trade name or other device, in connection with the manufacturing, labelling, advertising, promotion, offering for sale, sale or distribution of any Eligible Footwear or of products similar to the Eligible Footwear in Canada, is restrained and enjoined from making, or assisting others from making, directly or by implication, the following representations on the FitFlop Footwear packaging, labelling, hangers, hangtags, warning labels, commercials, advertisements, and other promotional materials (including FitFlop's Internet and social media websites and advertisements) unless, at the time of making such representations, FitFlop possesses and relies upon competent and reliable scientific evidence that substantiates that such representations are true and non-misleading: such product is effective in strengthening, toning, burning calories, or assisting in weight loss; such product will result in a qualified percentage or amount of muscle toning; and such product will reduce cellulite or provide relief from heel spurs, chronic pain, sciatica, osteoarthritis, lower limb edema or degenerative disc disease.

Notwithstanding the above, FitFlop will be permitted to sell through remaining inventory currently in the Canadian market, with the labels and hangtags currently affixed to the footwear and boxes containing the claims specified above. FitFlop will also be permitted to release existing inventory with the labels and hangtags currently affixed to the footwear and boxes containing the claims specified above in the Canadian market for a period of 18 months from the Effective Date as defined below.

15. **WHEREAS** it is understood and agreed however that, as the business operations in the USA were always directly controlled by a FitFlop subsidiary, whereas in Canada FitFlop was distributed during the relevant period by a third-party distributor, it is agreed that FitFlop will not be held responsible should retailers continue to sell inventory with labels and hangtags or use old marketing collateral that was supplied to them by the third-party distributor.
16. **WHEREAS** FitFlop will continue to communicate the features of its footwear in compliance with all applicable federal and provincial laws and regulations;
17. **WHEREAS** the parties and their counsel agree that the Canadian class proceedings should be settled on a similar basis as the U.S. proceedings;
18. **NOW, THEREFORE**, the parties agree as follows:

II. Specifications and definitions:

19. All amounts of money mentioned in the present Settlement Agreement are in Canadian dollars, unless otherwise indicated.
20. In this Settlement Agreement, in addition to the terms that are defined elsewhere herein, the following terms have the meanings specified below. The plural of any defined term includes the singular and the singular of any defined term includes the plural. Likewise, the masculine of any defined term includes the feminine and the feminine of any defined term includes the masculine, as the case may be.
- (a) “**Account**” means an interest bearing trust account under the control of the Claims Administrator at a chartered Canadian bank. All interest accrued will be added to the fund used to compensate Class Members;
 - (b) “**Approval Hearing**” means the court hearing held before the Quebec Court to determine whether the Settlement Agreement should be approved;
 - (c) “**Approval Order**” means the court order handed down by the Quebec Court approving the Settlement Agreement (**Schedule “G”** of the Settlement Agreement);
 - (d) “**Canadian Class Members**” means class members who are residents of the provinces and territories of Canada;
 - (e) “**Claim**” means the claim of a Class Member or his or her representative submitted on a Claim Form as provided in this Settlement Agreement;
 - (f) “**Claimant**” means a Class Member who has not opted out and who has submitted a timely Claim Form as set forth herein;
 - (g) “**Claim Form**” means the form submitted by a Class Member in order to obtain benefits under the Settlement Agreement (**Schedule “B”** of the Settlement Agreement);
 - (h) “**Claim Period**” means the time period in which Class Members may submit a Claim Form. The Claim Period shall run immediately from the publication of the Pre-Approval Notice and will terminate sixty (60) days following the Effective Date;
 - (i) “**Claims Administrator**” means the claims administrator to be appointed by the Quebec Court to administer the Settlement Agreement and oversee, among other things, publication of Class Notice, the Settlement Website, and other communication and notice methods with Class Members, and the processing, handling, reviewing, approving, and paying of Claims made by Claimants;

- (j) "**Claims Administration Fees and Expenses**" means the fees and expenses charged by the Claims Administrator for, among other things, the publication of Class Notice, establishment and maintenance of the Settlement Website and other communication and notice methods with Class Members, and the processing, handling, reviewing, and paying of Claims made by Claimants;
- (k) "**Claims Protocol**" means the protocol that shall govern the processing of claims and other administrative matters (**Schedule "H"** of the Settlement Agreement);
- (l) "**Class**" means the class as set out more fully below;
- (m) "**Class Counsel**" means Consumer Law Group Inc. / Consumer Law Group P.C.;
- (n) "**Class Counsel Fees and Expenses**" means the legal fees, disbursements, and applicable taxes of Class Counsel;
- (o) "**Class Member**" means a person who falls within the description of the Class set out more fully below;
- (p) "**Class Notice**" means the Court-approved notice that is directed to Class Members, more specifically the Pre-Approval Notice;
- (q) "**Defence Counsel**" means McCarthy Tétrault LLP;
- (r) "**Discontinuance Order**" means the order rendered by the Ontario Court discontinuing the class proceeding pending before it generally in the form attached hereto as **Schedule "F"** of the Settlement Agreement;
- (s) "**Effective Date**" means the date which is 30 days after the later date on which an Approval Order has been signed and entered by the Quebec Court and a Discontinuance Order has been signed and entered by the Ontario Court, provided that no appeal has been brought, or if any appeal has been brought, the date which is 30 days after such an appeal is finally resolved so as to permit the consummation of the settlement in accordance with the terms and conditions of the Settlement Agreement;
- (t) "**Eligible Footwear**" means footwear that are listed under Category I or II of **Schedule "A"** of the Settlement Agreement;
- (u) "**FitFlop Footwear**" and "**Footwear**" mean FitFlop-branded footwear with Microwobbleboard Technology;
- (v) "**Honorarium Award**" or "**Incentive Award**" means the amount payable to the Representative Plaintiffs;
- (w) "**Litigation**" means the class action filed with the Quebec Court under file number 500-06-000629-127 and the class proceeding filed with the Ontario Court under file number 14-60155;

- (x) "**Notice Costs**" includes all reasonable costs and expenses expended in publishing the Pre-Approval Notice, including but not limited to: (1) preparing, disseminating, posting, promoting, internet housing, and publishing of the Pre-Approval Notice and (ii) any other necessary notice or notice-related activities;
- (y) "**Objection**" refers to any objection to the Settlement Agreement validly made pursuant to the Pre-Approval Notice. The Claims Administrator shall promptly inform Class Counsel and Defence Counsel of any notice of Objection that it receives;
- (z) "**Ontario Class Action**" means the class action commenced by J. M. Murray against FitFlop Limited under file number 14-60155;
- (aa) "**Opt-Out Deadline**" means forty-five (45) days following the Approval Order;
- (bb) "**Opt-Out Form**" means the form that enables a Class Member to exclude himself or herself from the Settlement Agreement (**Schedule "C"** of the Settlement Agreement);
- (cc) "**Parties**" means the parties named in the Litigation;
- (dd) "**Person**" means a physical person;
- (ee) "**Pre-Approval Notice**" means the form of notice approved by the Quebec Court that advises Class Members of the Approval Hearing (**Schedule "D"** of the Settlement Agreement);
- (ff) "**Pre-Approval Order**" means the court order rendered with respect to the Pre-Approval Notice that is substantially similar to that contained in **Schedule "E"** of the Settlement Agreement;
- (gg) "**Quebec Class Action**" means the class action commenced against FitFlop Limited by Emily Cunning under file number 500-06-000629-127;
- (hh) "**Released Persons**" means FitFlop Limited and each of its present or past directors, officers, employees, agents, shareholders, counsel, advisors, insurers, consultants, representatives, partners, affiliates, parents, subsidiaries, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, related companies, and divisions, and each of their predecessors, successors, heirs and assigns;
- (ii) "**Releasing Persons**" means Plaintiffs Emily Cunning and J. M. Murray, on behalf of themselves, and all Class Members, as well as their respective heirs, executors, representatives, agents, partners, shareholders, successors and assigns, excluding those Class Members who timely and validly file an Opt-Out Form;
- (jj) "**Representative Plaintiffs**" means Emily Cunning, in the case of the Quebec Class Action, and J. M. Murray, in the case of the Ontario Class Action;

- (kk) “**Schedules**” means the schedules incorporated by reference into to the Settlement Agreement;
- (ll) “**Settlement Agreement**” means the written settlement agreement set out herein, including its schedules and any written executed amendments thereto;
- (mm) “**Settlement Benefits**” means an amount provided to a Class Member pursuant to the terms of the Settlement Agreement;
- (nn) “**Settlement Class**” means those Class Members who are bound by the Approval Order, and who have not validly opted-out;
- (oo) “**Settlement Fund**” means the all-inclusive sum of CDN \$400,000;
- (pp) “**Settlement Website**” means the bilingual website set up by the Claims Administrator to manage the settlement, to provide information to the public about this Settlement Agreement and to permit Class Members to submit Claims online;
- (qq) “**Settling Parties**” means Representative Plaintiffs Emily Cunning and J. M. Murray and the Defendant, FitFlop Limited.

III. The Class:

- 21. The class is composed of all residents of Canada who have purchased FitFlop Footwear up to and including the date of the Pre-Approval Order (the “**Class**”).
- 22. The Representative Plaintiff of the Quebec Class Action shall file a motion before the Quebec Court for an order authorizing the proceeding as a national class proceedings (for settlement purposes only) and approving this Settlement Agreement.
- 23. The Approval Order, once issued, shall bind all Class Members, except for those Class Members who have opted-out in accordance with the provisions of the present Settlement Agreement.
- 24. Once the Approval Order is issued, the Representative Plaintiff of the Ontario Class Action shall file a motion before the Ontario Court for a discontinuance without costs of the Ontario Class Action.

IV. Settlement Benefits

25. FitFlop shall provide no more than \$400,000 (the “Settlement Fund”) for payment of all Notice Costs, Class Counsel Fees and Expenses, Honorarium Awards, Claims Administration Fees and Expenses, and valid Claims, inclusive of any applicable taxes.
26. Subject to the upward and downward adjustments specified below, the Settlement Benefits to be provided to Class Members who submit a valid Claim Form shall be as follows:

Eligible Footwear	Initial Amount	Maximum Amount
Category 1	\$25	\$60
Category 2	\$40	\$100

27. All Eligible Footwear are listed in **Schedule “A”** of the Settlement Agreement.
28. To receive Settlement Benefits, each Class Member must submit a valid Claim Form in accordance with Part V below. Class Members may recover payment for up to two pairs of FitFlop Footwear by submitting a Claim Form under penalty of law. Class Members may recover Settlement Benefits for more than two pairs of FitFlop Footwear by submitting a Claim Form under penalty of law and providing valid and legible proof of purchase for each pair of FitFlop Footwear for which Settlement Benefits are sought. Adequate and customary procedures and standards will be used by the Claims Administrator to prevent the payment of fraudulent claims and to pay only legitimate claims.
29. The Settlement Fund shall be applied: first, to pay Notice Costs; second, to pay Class Counsel Fees and Expenses and Honorarium Awards; third, to pay Claims Administration Fees and Expenses; and fourth to provide Settlement Benefits; the whole with all applicable taxes, if any;
30. The amount available in the Settlement Fund after all Notice Costs, Class Counsel Fees and Expenses, Honorarium Awards, Claims Administration Fees and Expenses and all

applicable taxes, if any, have been paid, shall be paid on a *pro rata* basis among the Class Members who have submitted valid Claims for one or more pairs of footwear, provided that in no case shall any Class Member receive more than the “Maximum Amount” stipulated in paragraph 26 of this Settlement Agreement.

31. If the aggregate of valid Claims by Class Members exceeds the amount available in the Settlement Fund after all Notice Costs, Class Counsel Fees and Expenses, Honorarium Awards and Claims Administration Fees and Expenses have been paid, then the amount payable to each Claimant will be reduced on a *pro rata* basis.
32. In conjunction with this Settlement Agreement, Fitflop shall deposit, no later than ten (10) business days after the Quebec Court’s issuance of the Pre-Approval Order, \$75,000 (the “First Payment”) in escrow to be held in the Account by the Claims Administrator, which amount shall be used to pay Notice Costs and Claims Administration Fees and Expenses as such expenses become due and payable. No later than ten (10) business days after the Effective Date, Fitflop shall deposit \$325,000 (the “Second Payment”) in escrow to be held in the Account by the Claims Administrator (the First Payment and the Second Payment shall constitute together the “Escrowed Funds”). The Claims Administrator shall act as the “Escrow Agent” for the First Payment, the Second Payment and the Escrowed Funds. Once Fitflop deposits the First Payment and/or the Second Payment with the Escrow Agent, any risk of loss shall pass from Fitflop to the Escrow Agent.
33. If, within six (6) months of the payments being issued to Claimants from the Claims Administrator, a balance exists in the Account as a result of uncashed distributions, interest earned on the Escrowed Funds, or any other surplus monies, any remaining funds (“Surplus Funds”) shall be paid as follows:
 - (a) The *Fonds d’aide aux actions collectives* will be entitled to claim the percentage provided for at s. 1 of the *Règlement sur le pourcentage prélevé par le Fonds d’aide aux actions collectives*, R.L.R.Q., c. R-2.1, r. 2, on the Quebec portion of the remaining funds. Such Quebec portion will correspond to 23.6% of the remaining funds.

- (b) The balance will be donated to the Canadian Podiatric Medical Association, a non-profit organization dedicated to enhancing the profession of podiatry and increasing awareness among Canadians about the importance of good foot health care.

V. Claims Process and Administration

- 34. The Claims Administrator appointed by the Quebec Court shall be responsible for paying Notice Costs, Class Counsel Fees and Expenses, Honorarium Awards, Claims Administration Fees and Expenses and Settlement Benefits pursuant to any orders rendered by the Quebec Court, and to the joint written instructions of Defence and Class Counsel.
- 35. Fees paid to the Claims administrator shall not exceed \$50,000 plus any and all applicable taxes.
- 36. Class Members may submit a Claim Form for Settlement Benefits. The Claims Administrator shall review and process the Claim Forms pursuant to the Claims Protocol.
- 37. Claim Forms will be available for online submissions from the Settlement Website, available for download from the Settlement Website and, upon request, will be mailed or emailed to Class Members by the Claims Administrator.
- 38. Each Class Member is entitled to submit only one (1) Claim Form.
- 39. The Claim Form must be postmarked or submitted electronically no later than the last day of the Claim Period. Claim Forms postmarked or submitted electronically after the end of the applicable Claim Period shall be denied by the Claims Administrator, and the Claims Administrator shall not make any payment on such claims.
- 40. The Claims Administration Fees and Expenses shall be paid from the Account. The Claims Administrator shall be responsible for, without limitation: (a) arranging for the dissemination of the Pre-Approval Notice; (b) responding to requests from Class Members; (c) receiving and maintaining Class Member correspondence regarding requests for Opt-Out and objections to the Settlement; (d) forwarding verbal and written

inquiries to Class Counsel for a response, if warranted; (e) receiving correspondence from Class Members; (f) responding to requests from Class Counsel and Defence Counsel; (g) the management of the Settlement Website; (h) establishing a toll-free telephone number that Class Members may call for information; (i) receiving and evaluating Claim Forms from Class Members; (j) making payment of approved Claims to Class Members and (k) otherwise implementing and/or assisting with the Pre-Approval Notice, the Pre-Approval Order, the Approval Order, and/or the Settlement Benefits of the Settlement. The Claims Administrator will provide these services in French and English.

41. If the Claims Administrator determines that a Claim Form meets the requirements specified in the Claims Protocol, the Claims Administrator shall send the Class Member, by mail, the applicable Settlement Benefits within one hundred (100) days after the end of the Claim Period.
42. If the Class Member submits an incomplete Claim Form, the Claims Administrator shall give the Class Member written notice of the deficiencies and the Class Member shall have fourteen (14) days from the date of the written notice to cure the deficiencies and to provide any missing or incomplete information. If, within the time provided, the Class Member cures these deficiencies and the Claims Administrator determines that the Claim Form complies with the requirements specified in the Claims Protocol, the Claims Administrator shall send the Class Member, by mail, the applicable Settlement Benefits. Class Members shall have only one opportunity to cure.
43. The Claims Administrator shall have discretion to investigate any suspicious or fraudulent Claim and, in such case, request any additional supporting documentation or other evidence that the Claims Administrator deems appropriate.
44. Within seventy-five (75) days after the end of the Claim Period, the Claims Administrator shall provide to Defence Counsel and Class Counsel, on a confidential basis, namely, without restricting the generality of the foregoing, details regarding the total amount of claims received, accepted or denied, the total amount of money claimed and the total amount of Settlement Benefits to be disbursed.

VI. Dispute Resolution:

45. Any dispute involving the right of a Class Member to participate in the Settlement Agreement or receive Settlement Benefits shall be dealt with first by the Claims Administrator, which will try to settle it. If there is still a dispute, Class Counsel and Defence Counsel shall meet, confer and attempt to reach a resolution, and, if unable to resolve the issue, shall submit for decision any issue on which they disagree to the Quebec Court.
46. Class and Defence Counsel undertake to use their best efforts to see that all disputed claims are resolved no later than eighty (80) days following the end of the Claim Period.

VII. Court Approval of the Settlement Agreement

(a) *Pre-Approval Notice*

47. Promptly following execution of the Settlement Agreement, Class Counsel shall file a motion with the Quebec Court for an order approving the Pre-Approval Notice.

(b) *Motion for Approval of the Settlement Agreement*

48. As soon as practicable after the Pre-Approval Order is granted, Class Counsel shall file a motion with the Quebec Court for approval of the Settlement Agreement and shall seek to obtain the Approval Order (**Schedule “E”** of the Settlement Agreement).
49. Among other things, this motion will seek leave to amend the class description to include residents of Canada who have purchased FitFlop Footwear up to and including the Pre-Approval Order.
50. Subject to judicial approval and only for purposes of this Settlement Agreement, FitFlop attorns to the jurisdiction of the Quebec Court for the authorization of a Canada-wide class.
51. At the Approval Hearing, Class Counsel and Defence Counsel shall move for final approval of the Settlement Agreement, confirm that they and the Settling Parties support all aspects of the present Settlement Agreement, and state that they believe the settlement to be fair, reasonable, appropriate and in the best interest of the Class Members.

(c) Failure to Obtain the Approval Order

52. If the Settlement Agreement is not approved by the Quebec Court, the Settling Parties shall be restored to their respective positions in the Litigation, and the Settlement Agreement shall be deemed null and void.
53. In the event this Settlement Agreement does not become final for any reason, then within no later than three (3) business days of Fitflop giving written notice to Class Counsel and the Claims Administrator, the Claims Administrator shall distribute to Fitflop the Escrowed Funds in the Account, less any Claims Administration Fees and Expenses incurred as of the date that Fitflop provides written notice pursuant to this section.

VIII. Notice and Opting-Out

54. All Notice Expenses shall be paid from the Settlement Fund.

(a) Pre-Approval Notice

55. The Claims Administrator shall notify Class Members of the Settlement Agreement by way of a Pre-Approval Notice which states, *inter alia*: (i) that the Settlement Agreement will be submitted to the Quebec Court for approval, specifying the date and place of such hearing but stating that the date may change and will be posted only on the Settlement Website; (ii) the nature of the Settlement Agreement and the method of its execution; (iii) the procedure to be followed by the Class Members to file their Claims; (iv) that Class Members have the right to object to the Settlement Agreement and present their arguments to the Quebec Court; (v) the procedure to be followed in order to Opt-Out of the Settlement Agreement before the Opt-Out Deadline; (vi) directing Class Members to the Settlement Website; and (vii) providing instructions for contacting the Claims Administrator to obtain a paper Claim Form or otherwise.
56. The Pre-Approval Notice will be published once in the form of a 1/3-page advertisement in a weekly edition of *La Presse+* (in French) and *The Globe and Mail* (In English). The Pre-Approval Notice shall also be released, in French and English, via Canadian

Newswire and posted on Class Counsel's website, Class Counsel's Facebook page, and the Settlement Website.

(b) Settlement Website

57. Once the Pre-Approval Order has been issued, the Claims Administrator shall promptly set up and maintain a bilingual Settlement Website which shall, *inter alia*, describe the Class, summarize the essential elements of the Settlement Agreement, and provide for the electronic submission of the Claim Form.

(c) Objections

58. Class Members shall have the right to appear and show cause if they have any reason why the terms of this Settlement Agreement should not be granted approval. Objections, including all briefs or other papers or evidence in support thereof, must be in writing and shall be postmarked, served, filed and received by the Claims Administrator no later than ten (10) days prior to the Approval Hearing.
59. Class Members may object either on their own or through a lawyer hired at their own expense. No Class Member represented by a lawyer shall be deemed to have objected to the Settlement Agreement unless the Objection is signed by the Class Member himself or herself.
60. Any objection regarding or related to the Settlement Agreement shall contain: (i) a caption or title that identifies it as Objection to the Settlement; (ii) information sufficient to identify and contact the objecting Class Member (or his or her lawyer, if any), such as name, address, email address and telephone number; and (iii) a clear and concise statement of the Class Member's objection, the legal grounds on which the objection is based, and documents sufficient to establish the basis for his or her standing as a Class Member, i.e. proof of purchase or verification under oath as to their purchase of the Eligible Footwear.
61. Any objecting Class Member who wishes to appear before the Quebec Court at the Approval Hearing, whether in person or through a lawyer, must send a notice of intention to appear in writing which must be postmarked, served, filed and be received by the Claims Administrator no later than ten (10) days prior to the Approval Hearing. Such notice of

intention to appear must include the name, address, and telephone number of the Class Member and any lawyer who will appear on his or her behalf.

62. Within five (5) days after the receipt of any Objection, the Claims Administrator shall provide the Class Counsel and Defence with a copy of the Objection and any accompanying documentation relating thereto.

(d) Opting-Out

63. Any person who would otherwise be a Class Member who does not wish to participate in this Settlement must write to the Claims Administrator stating an intention to be "excluded" from this Settlement. Class Members who want to opt out must complete the Opt-Out Form, attached as **Schedule "C"**, and send it via regular, first class, or registered mail to the Claims Administrator and it must be postmarked no later than the last day of the Opt-Out Deadline. The Opt-Out must be personally signed by the person who wishes to opt out. So-called "mass" or "class" opt-outs shall not be allowed.
64. Class Members who want to opt out and who are also residents of Quebec must do so by giving notice to the Clerk of the Superior Court of Quebec by the Opt-Out Deadline and in the manner prescribed by the Code of Civil Procedure, as well as complete the Opt-Out Form and file it with the Claims Administrator by the Opt-Out Deadline.
65. Any Class Member who does not Opt-Out of the Settlement has the right to object to the Settlement. Any Class Member who wishes to object must timely submit an Objection, as provided for in this Settlement Agreement. If a person who would otherwise be a Class Member submits both an Objection and an Opt-Out, he or she shall be deemed to have complied with the terms of the Opt-Out procedure, and shall not be bound by the Settlement Agreement, if approved by the Quebec Court.
66. The Claims Administrator, no later than five (5) days following the Opt-Out Deadline, must provide Class Counsel and Defence Counsel with a list of all Opt-Out Forms.
67. If fifty (50) or more Class Members Opt-Out of the settlement, FitFlop may terminate the Settlement Agreement. Should the Settlement Agreement be terminated by FitFlop, the

Settling Parties shall be restored to their respective positions in the Litigation, and the Settlement Agreement shall be null and void, in which case the provisions of paragraphs 52 and 53 above shall apply.

IX. Class Counsel Fees and Expenses and Honorarium Awards

68. As part of the Settlement Fund, Fitflop agrees to pay Class Counsel Fees and Expenses in accordance with the terms and conditions specified below.
69. Within the motion seeking the issuance of the Approval Order, Class Counsel will ask the Quebec Court to approve their global award of Class Counsel Fees and Expenses in the amount of \$200,000 plus any applicable federal and provincial taxes.
70. The amount sought for Class Counsel Fees and Expenses shall not exceed \$200,000, plus any applicable federal and provincial taxes. All Class Counsel Fees and Expenses shall be deducted from the Settlement Fund.
71. Defence Counsel will not oppose Class Counsel's request for Class Counsel Fees and Expenses.
72. Approval of the Settlement Agreement is in no way contingent upon the approval of Class Counsel Fees and Expenses, which shall be analysed and determined on an independent basis.
73. Class Counsel Fees and Expenses awarded by the Quebec Court shall be paid by the Claims Administrator from the Settlement Fund to Class Counsel no later than five (5) business days after the Effective Date.
74. Honorarium Awards of \$1,500 will be distributed to each of the Representative Plaintiffs in consideration for the time and efforts they put into the Litigation and its preparation. All Honorarium Awards shall be deducted from the Settlement Fund. The Honorarium Awards shall be released to Class Counsel by the Claims Administrator five (5) business days after the Effective Date. Class Counsel shall then remit this award to the Representative Plaintiffs.

X. Releases

75. Upon the Effective Date, the Releasing Persons hereby fully, finally, and forever release, relinquish, and discharge the Released Persons from any and all liabilities, claims, cross-claims, causes of action, rights, actions, suits, debts, liens, contracts, agreements, damages, restitution, disgorgement, costs, attorney fees, losses, expenses, obligations or demands, of any kind whatsoever that the Releasing Persons may have or may have had, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis or on behalf of the general public, whether known or unknown, suspected or unsuspected, threatened, asserted or unasserted, actual or contingent, liquidated or unliquidated, that were alleged or which could have been alleged in the Litigation, regarding any representations surrounding the FitFlop Footwear sold or marketed in Canada, including without limitation, claims relating to any alleged misrepresentation or failure to disclose involving FitFlop Footwear sold or marketed in Canada and bought or obtained by the Representative Plaintiffs or Class Members, but not including claims for bodily injury ("**Released Claims**").
76. Nothing in this Settlement Agreement shall constitute or shall be deemed to constitute a waiver by FitFlop of any defence with respect to any Class Member who opts-out of the Settlement Agreement, or in the event that no Approval Order is issued by the Quebec Court or no Discontinuance Order is granted by the Ontario Court.
77. Any Settlement Benefits provided under the Settlement Agreement are without admission of liability. The Releasing Parties agree that the Settlement Agreement, the Pre-Approval Order and the Approval Order rendered in respect of the Settlement Agreement shall not constitute an admission or be used as evidence against FitFlop. Nothing in the Settlement Agreement shall be used for any purpose in any class proceeding or legal proceeding unless expressly authorized herein.

XI. Miscellaneous Provisions

78. The Settlement Agreement and its Schedules supersede all prior agreements between the Settling Parties, whether oral or in writing, pertaining to the subject-matter of the Litigation and constitute the entire agreement among the Settling Parties. No

representations, warranties, or inducements have been made to any Settling Party concerning the Settlement Agreement or its Schedules other than the representations, warranties, and covenants contained herein.

79. The Settling Parties acknowledge that it is their intent to consummate the Settlement Agreement, and they agree to co-operate to the extent reasonably necessary to effect and implement all terms and conditions of the Settlement Agreement.
80. The Settling Parties intend the Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settlement Agreement shall not be deemed an admission by any Settling Party as to the merits of any claim or defence. The Settling Parties agree that the benefits provided to the Class Members and the other terms of the Settlement Agreement were negotiated in good faith, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.
81. Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement is or may be deemed to be or may be used as an admission, or evidence, of the validity of any Released Claim, or of any wrongdoing or liability on the part of FitFlop, or is or may be deemed to be or may be used as an admission, or evidence, of any fault, omission, wrongdoing or liability of FitFlop, in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal. Any Released Person may file this Settlement Agreement and/or the Approval Order and/or the Discontinuance Order in any action that may be brought against it in order to support any defence or counterclaim, including, without limitation, those based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defence or counterclaim.
82. FitFlop has denied vigorously, and continues to deny, each and every allegation of liability and wrongdoing, and asserts that it has substantial factual and legal defences to all the claims alleged and that such claims are without merit. Nevertheless, FitFlop has concluded that further conduct of the Litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the

terms and conditions set out in the Settlement Agreement. Without admitting any wrongdoing or liability whatsoever, FitFlop accepts the terms of the Settlement Agreement provided that all issues relating to the subject-matter of the Litigation are hereby completely resolved and released.

83. Class Counsel shall, at its own cost, post copies of this Settlement Agreement, its Schedules, the Pre-Approval Notice, the Discontinuance Order, and the Approval Order on its firm website.
84. The recitals and all of the Schedules to this Settlement Agreement are material and integral parts hereof and are fully incorporated herein by this reference.
85. Unless otherwise ordered by the Quebec Court, the Settling Parties may jointly agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.
86. The captions contained in the Settlement Agreement are inserted only as a matter of convenience and in no way define, extend or describe the scope of the Settlement Agreement or the intent of any provision thereof.
87. Except as otherwise provided herein, the Settling Parties shall bear their own respective costs.
88. Class Counsel, on behalf of the Class Members, is expressly authorized by the Representative Plaintiffs to take all appropriate action required or permitted pursuant to the Settlement Agreement in order to effect its terms, and is expressly authorized to make any modifications or amendments to the Settlement Agreement which Class Counsel deems appropriate.
89. Each counsel or other person executing the Settlement Agreement or any of its Schedules on behalf of any Settling Party hereby warrants that such person has the full authority to do so.
90. The Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

91. The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Released Persons.
92. The Quebec Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement.
93. None of the Settling Parties, or their respective counsel, shall be deemed the drafter of this Settlement Agreement or its Schedules for purposes of construing the provisions thereof. The language in all parts of the Settlement Agreement and its Schedules shall be interpreted according to its fair meaning, and shall not be interpreted for or against any of the Settling Parties as the drafter thereof. No Class Counsel nor anyone employed with Class Counsel may divulge any non-public information obtained in the course of the Litigation to anyone for any purpose, except as permitted by this Settlement Agreement or as required by law or ordered by a court of law.
94. The Settlement Agreement and the Schedules hereto shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of Quebec.
95. The Settlement Agreement constitutes a transaction pursuant to Articles 2631 and following of the *Civil Code of Quebec* and the Settling Parties are hereby renouncing to any errors of fact, law and/or calculation.
96. Defence Counsel will undertake the drafting of all translations from English to French of the Settlement Agreement and its Schedules, as well as, any and all documents reasonably required for the implementation of this Settlement Agreement.
97. The Parties acknowledge having requested that this Settlement Agreement and all related documents be drafted in the English language. *Les Parties reconnaissent avoir exigé que cette entente et tous les documents y afférant soient rédigés en anglais.*
98. The French and English versions of the Settlement Agreement are equally authoritative.
99. Any and all notices, requests, directives or communications required by the Settlement Agreement shall be in writing and shall, unless otherwise expressly provided herein, be

given personally, by e-mail, by postage prepaid mail or by facsimile transmission, followed by postage prepaid mail, and shall be addressed as follows:

IF TO: EMILY CUNNING OR J. M. MURRAY

Care of:

Mtre Jeff Orenstein
Consumer Law Group Inc.
1030 Berri St., Suite 102
Montreal, Quebec, H2L 4C3
Phone: 1-888-909-7863
514-266-7863
613-627-4894
416-479-4493
Fax: 514-868-9690
jorenstein@clg.org

IF TO: FITFLOP LIMITED

Care of:

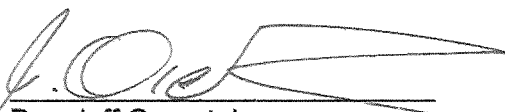
Mtre Jean Lortie
McCarthy Tétraut LLP
Suite 2500
1000 de la Gauchetière Street West
Montreal, Quebec H3B 0A2
Phone: 514-397-4146
Fax: 514-875-6246
jlortie@mccarthy.ca

SIGNED in Montreal.



Per: Jean Lortie
McCarthy Tétraut LLP
On behalf of FitFlop Limited

SIGNED in Montreal.



Per: Jeff Orenstein
Consumer Law Group Inc. / Consumer Law Group P.C.
On behalf of Emily Cunning and J. M. Murray

SCHEDULE "A"

FitFlop Limited Settlement Program in Canada

ELIGIBLE FITFLOP FOOTWEAR
CATEGORY 1 GROUP

The following is a list of the Eligible FitFlop Footwear. Each was marketed with Microwobbleboard Technology and may have contained the following symbol stating "MICROWOBBLEBOARD" on their sole:

Boy's Hyker	Kid's Gogh Far	WalkStar III
Boy's Leather Clog	Lucia	WalkStar Slide
Boy's Scrambler	Luna	
Ciela	Men's Freeway	
Dass	Men's Hyker	
Electra	Navajo	
Electra Strata	Oasis	
Freeway	Oasis II	
Fringe	Pietra	
Gemma	Positano	
Girl's Electra	Rebel	
Girl's Happy Gogh	Roma	
Girl's Hyka	SuperJelly	
Girl's Liberty Gogh Far	Superjelly Slide	
Girl's Oasis	Superjelly Twist	
Girl's Scrambler	Trakk	
Gogh II	WalkStar	
Hyka	WalkStar Disney	
Isos	WalkStar II	

ELIGIBLE FITFLOP FOOTWEAR
CATEGORY 2 GROUP

The following is a list of the Eligible FitFlop Footwear. Each was marketed with Microwobbleboard Technology and may have contained the following symbol stating “MICROWOBBLEBOARD” on their sole:

A.O. Boot	Floretta	Nova
Airman Boot	Freeway II	Novy
Aix Slide	Frou	Novy Sandal
Alphaboot	Gemini	Novy Slide
Amsterdam	Girl’s Blizz Boot	Olo
Arena	Girl’s FF Funsneaker	Olo Sandal
Arena Slide	Girl’s Superblizz Boot	Palma
Astrid	Gladda	Petra
Aztek Chada	Gladiator	Pierra
Aztek Sandal	GlitteRosa	Pietra
Aztek Slide	Gogh	Pietra II
Bahia	Gogh Leather	Pietra II Slide
Bahia Slide	Gogh MOC	Polar Sneaker
Bijoo	Gogh Pro	Pom
Biker Chic	Gogh Sandal	Positano
Biker Chic Slide	Gogh Shearing	Raff
Billow	Gogh Slide	Riata
Blizzboot	Gogh Suede	Ringer
Bloom	Gogh™ Pro SuperLight Leather Clogs	Rock Chic
Bloom Sandal	Hanabira	Rock Chic Slide
Bloom Slide	Happy Gogh	Rokkit
Blossom	Hola Slide	Rosita
Blossom II	Hooper	Shakoha
Blossom II Sandal	Hooper Boot Short	Sho
Boho	Hooper Boot Tall	Shuv
Bon	Hop	Silver Boot (Short)
Bon Easy	Hyka Boot	Silver Boot (Tall)
Boy’s Chukker	Ibiza	Sling
Boy’s FF Funsneaker	Ike Boot	Sling M
Buzz	Ike Sneaker	Sling M Sandal
Byker Boot	Inuk	Sling Sandal
Byrd Boot	Jeweley	Sling Toe Post

Carmel	Jeweley Sandal	Sling-Comber
Carmel Slide	Jeweley Slide	Sneak-Hiker
ChaCha	Joplin	Snugger
Chada	Kid's Mukluk	Soo
Chada Sandal	Kooper	Souza
Charley Boot	KYS	Stack
Chukker	KYS Slide	ST70 Sneaker
Ciela	Landsurfer	Suisei
Ciela Slide	Leather Lattice Surfa	Summa
Crossover Shuv	Lewis	Superblizz Boot
Crossover Shuv M	Lewis Boot	Superboot Short
Crush Boot	Lexx	Superboot Tall
Crystalulu	Loaff Lace-Up Moc	Superduck
Crystal Swirl	Loaff Shorty Zip Boot	Superjelly
Dash	Loaff Slouchy Knee Boot	Superjelly Slide
Dinomuk	Lolla	Superjelly Twist
Dino-Shuv	Lounge Deluxe	SuperLoafer
Electra	Lucie (Loafer)	SuperToneM
F-Boot	Lucy (Loop)	Supertop
FF Supersneaker	Lulu	Surfa
FF Supersneaker High	Lulu ShimmerSuede	Sweetie
FF SuperTone	Lulu Silky	Swirl
FFBuzz	Lulu Slide	The Cuddler
Ffisher	Luna Pop	The Jones
Ffisher Slide	Lunetta	The Skinny
Fiorella	Manyano	The Skinny Leather Sandals
Flare	Manyano Slide	Tia
Flare Sandal	Men's Gogh Shearling	Trakk II
Flare Slide	Men's Mukluk	Trella
Fleur	Men's Shuv	Ultra Lounge
Fleur Sandal	Monty	Via
Flex	Monty Boatmoc	Walkstar Rockstar
Flex Boot	Mukluk	Whirl
Flex Hi-Top	Mukluk Explorer	Xosa
Flex Loafer	Mukluk MOC 2	Yoko
Flora	Nauti	Yoko Sandal
Florent		

SCHEDULE “B”

CLAIM FORM

INSTRUCTIONS – TERMS AND CONDITIONS

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY TO DETERMINE IF YOU QUALIFY FOR BENEFITS UNDER THIS PROGRAM.

I- WHO IS ELIGIBLE TO MAKE A CLAIM

The following terms and conditions govern the FitFlop Settlement Program in Canada:

1. In order to make a claim, you must be a resident of Canada who has purchased FitFlop footwear up to and including [the date that the Pre-Approval Order is rendered by the Superior Court of Quebec].
2. Excluded from the settlement are all persons who validly opt-out.
3. You are entitled to submit only one Claim Form for all your purchases of FitFlop-branded footwear (“**FitFlop Footwear**”).

II- THE SETTLEMENT AND ITS BENEFITS

4. FitFlop Limited (“**FitFlop**”) has agreed to provide \$400,000 (the “**Settlement Fund**”) for payment of all notice costs, fees awarded to class counsel (“**Class Counsel Fees and Expenses**”), claims administration fees and costs and valid claims.
5. FitFlop has also agreed, among other things, to the terms of the injunctive relief in paragraph 14 of the Settlement Agreement with respect to its advertising, labelling, and promotional materials.
6. The benefits to be provided to eligible Class Members who submit a valid Claim Form (“**Settlement Benefits**”) are as follows:

Eligible Footwear	Initial Amount	Maximum Amount
Category 1	\$25	\$60
Category 2	\$40	\$100

7. All eligible FitFlop Footwear are listed in Schedule “A” of the Settlement Agreement.
8. Settlement Benefits may be decreased or increased on a *pro rata* basis depending on the aggregate number of valid claims, but such benefits may not exceed the maximum amounts indicated in the table above (i.e., \$60 or \$100, depending on the footwear).

9. Should there be a balance in the Settlement Fund following payment of all notice costs, Class Counsel Fees and Expenses, claims administration fees and costs and Settlement Benefits, the *Fonds d'aide aux actions collectives* may claim the percentage of the balance that it is entitled to under law. Such a claim will be limited to the proportionate share of Settlement Benefits provided to Quebec Class Members. The amount remaining in the Settlement Fund will then be paid to the Canadian Podiatric Medical Association.

III- HOW TO MAKE A CLAIM

10. You may obtain Settlement Benefits for up to two pairs of FitFlop Footwear by submitting the Claim Form below, under penalty of law. No proof of purchase is necessary.
11. You may obtain Settlement Benefits for more than two pairs of FitFlop Footwear by submitting the Claim Form below, under penalty of law, and by providing a valid and legible proof of purchase, for each pair of footwear for which Settlement Benefits are sought.
12. Claim Forms can be mailed to the Court-approved claims administrator (the "**Claims Administrator**") at the following address **[ADDRESS]**.
13. Claim Forms can also be sent electronically to the Claims Administrator at the following address **[WEB ADDRESS]**.
14. All Claim Forms must be postmarked or sent electronically no later than **[DATE]** (i.e. **60 days after the Effective Date**) (the "**Claims Filing Deadline**").
15. Class Members are entitled to submit only one Claim Form per person.
16. Duplicate, incomplete and late Claim Forms will not be honoured.
17. Lost, late, or misdirected mail or e-mail is not the responsibility of FitFlop or of the Claims Administrator.

IV- CLAIM FORM

18. To request Settlement Benefits you must print, complete and sign the Claim Form below. If you are claiming for more than two pairs of FitFlop Footwear, you must also attach your proofs of purchase to the completed claim form for each pair of footwear for which Settlement Benefits are sought and mail or e-mail the Claim Form and attachments to the proper address (for more details, please see paragraphs 10 and 11 above).
19. All Claim Forms will be checked for timing and validity by the Claims Administrator. Provided that your Claim Form is valid, the Claims Administrator will provide you with the applicable Settlement Benefits, by mail, within 100 days of the Claims Filing Deadline.

V- PERSONAL INFORMATION

Please provide the following information, which will be treated as confidential. Any Settlement Benefits that the Claims Administrator provides in response to your claim will be issued to the name and street address you provide. Please print clearly.

Name:	
Address:	
City:	
Province:	
Postal Code:	
Phone number :	
E-mail (if available):	
FitFlop Footwear for which Settlement Benefits are sought (please be specific as to any name, type, model serial numbers or other numbers that appear on the FitFlop Footwear, their packaging or labelling)	
If known, store(s) where FitFlop Footwear were purchased	
If known, date(s) of purchase(s) (MM / DD / YYYY)	

Acknowledgement, Certification and Release:

I am a Canadian resident who has purchased FitFlop Footwear.

IF APPLICABLE: I attach proofs of purchase of FitFlop Footwear.

By signing and dating this form, I acknowledge that I have read the terms and conditions herein and am qualified to obtain Settlement Benefits under this Settlement Program. I also hereby fully,

finally, and forever release the “**Released Persons**” of all claims alleged in the proceedings brought against FitFlop relating to any alleged misrepresentation or failure to disclose.

Released Persons means FitFlop and each of its present or past directors, officers, employees, agents, shareholders, counsel, advisors, insurers, consultants, representatives, partners, affiliates, parents, subsidiaries, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, related companies, and divisions, and each of their predecessors, successors, heirs and assigns.

Upon the Effective Date, I hereby fully, finally, and forever release, relinquish, and discharge the Released Persons from any and all liabilities, claims, cross-claims, causes of action, rights, actions, suits, debts, liens, contracts, agreements, damages, restitution, disgorgement, costs, attorney fees, losses, expenses, obligations or demands, of any kind whatsoever that the Releasing Persons may have or may have had, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis or on behalf of the general public, whether known or unknown, suspected or unsuspected, threatened, asserted or unasserted, actual or contingent, liquidated or unliquidated, that were alleged or which could have been alleged in the Litigation, regarding any representations surrounding the FitFlop Footwear sold or marketed in Canada, including without limitation, claims relating to any alleged misrepresentation or failure to disclose involving FitFlop Footwear sold or marketed in Canada and bought or obtained by the Representative Plaintiffs or Class Members, but not including claims for bodily injury.

I state, under penalty of law, that the information provided above is true. All information is complete and accurate.

Date

Signature

REMINDER

Please note the following deadline for postmarking/e-mailing your Claim Form and supporting documentation:

- **The deadline for submitting a claim is [DATE].**
- **If you have any questions while completing the Claim Form please contact the Claims Administrator at [PHONE] or at [WEB ADDRESS].**

SCHEDULE “C”

OPT-OUT FORM

Opting-out of the FitFlop Limited Settlement Program in Canada

Class members are bound by the terms of the settlement agreement (the “Settlement Agreement”), unless they opt-out of the class action.

If you opt-out, you will not be entitled to receive any settlement benefits. If you opt-out, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your claim. By opting-out, you will assume full responsibility for taking all necessary legal steps to protect your claim.

If you wish to opt-out, you must do so no later than 45 days following Approval Order by completing the form below (the “**Opt-Out Form**”).

Opt-Out Forms can be mailed to the claims administrator at the following address **[ADDRESS]**.

Opt-Out Forms can also be sent electronically to the claims administrator at the following address **[WEB ADDRESS]**.

Class members who want to opt-out must **IN ADDITION** give notice to the Clerk of the Superior Court of Quebec at:

Clerk of the Superior Court of Quebec
Montreal Courthouse
1, Notre Dame Street East
Montreal (Quebec) H2Y 1B6
Court file no. 500-06-000629-127

OPT-OUT FORM

Name:	
Address:	
City:	
Province:	
Postal Code:	
Phone number :	

E-mail (if available):	
------------------------	--

I represent that I purchased Eligible FitFlop Footwear in Canada. I am signing this Opt-Out Form to EXCLUDE myself from the FitFlop Limited Settlement Program in Canada.

Date

Signature

SCHEDULE “D”

PRE-APPROVAL NOTICE

**If You Bought FitFlop Footwear
You Could Get Money from a Class Action Settlement**

Detailed information and updates are available on the Settlement Website: www.FitFlopSettlement.ca

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

THE CLASS:

A proposed settlement has been reached with respect to the class action commenced against FitFlop Limited (“**FitFlop**”) before the Superior Court of Quebec under file number 500-06-000629-127 and before the Ontario Superior Court of Justice under file number 14-60155 on behalf of the following class (the “**Settlement Agreement**”):

- All residents of Canada who have purchased FitFlop Footwear up to and including [the date of the Pre-Approval Order] (“**Class Members**”).

Excluded from the Settlement Agreement are all persons who validly opt-out.

SUMMARY:

FitFlop has agreed to pay a maximum amount of \$400,000 (the “**Settlement Fund**”) for payment of all notice costs, fees awarded to class counsel (“**Class Counsel Fees and Expenses**”), honorarium awards, claims administration fees and costs and valid claims.

FitFlop has also agreed to the terms of the injunctive relief in paragraph 14 of the Settlement Agreement with respect to its advertising, labelling, and promotional materials.

The benefits to be provided to eligible Class Members who submit a valid Claim Form (“**Settlement Benefits**”) shall be as follows:

Eligible Footwear	Initial Amount	Maximum Amount
Category 1	\$25	\$60
Category 2	\$60	\$100

A list of all eligible FitFlop-branded footwear (“**FitFlop Footwear**”) can be found in Schedule “A” of the Settlement Agreement.

To receive Settlement Benefits, each Class Member must submit a valid Claim Form either by mail or electronically. Class Members may recover payment for up to two pairs of FitFlop Footwear by submitting a Claim Form, under penalty of law. No proof of purchase is necessary.

Class Members may recover payment for more than two pairs of FitFlop Footwear by Submitting a Claim Form, under penalty of law, and providing a valid and legible proof of purchase, for each pair of FitFlop Footwear for which Settlement Benefits are sought.

If the aggregate Settlement Benefits validly claimed by Class Members exceeds the Settlement Fund (minus notice costs, Class Counsel Fees and Expenses and claims administration fees and costs), individual Settlement Benefits will be reduced *pro rata*.

If the aggregate Settlement Benefits validly claimed by Class Members is less than the Settlement Fund (minus notice costs, Class Counsel Fees and Expenses, and claims administration fees and costs), individual Settlement Benefits will be increased *pro rata*. However, individual Settlement Benefits may not exceed the maximum amounts indicated in the table above (i.e., \$60 or \$100, depending on the Footwear).

Should there be a balance in the Settlement Fund following payment of all notice costs, Class Counsel Fees and Expenses, claims administration fees and costs, and Settlement Benefits, the *Fonds d'aide aux actions collectives* may claim the percentage of the balance that it is entitled to under law. Such a claim will be limited to the proportionate share of Settlement Benefits provided to Quebec Class Members. The amount remaining in the Settlement Fund will then be paid to the Canadian Podiatric Medical Association.

CLASS COUNSEL FEES AND EXPENSES:

The amount sought for Class Counsel Fees and Expenses will be \$200,000 plus any applicable federal and provincial taxes. All Class Counsel Fees and Expenses will be deducted from the Settlement Fund.

IMPORTANT DATES – APPROVAL, OPT-OUT AND OBJECTION:

A motion to approve the Settlement Agreement with respect to Class Members, regardless of their province or territory of residence, will be heard by the Superior Court of Quebec at the Montreal Courthouse located at 1 Notre Dame Street East, Montreal, Quebec on **[DATE]** (the “**Quebec Approval Hearing**”).

If the proposed settlement is approved, it will be binding on all Class Members except those who validly opt-out. All Opt-Out Forms must be postmarked no later than **45 days** following the Approval Order.

If you wish to object to the proposed settlement, you must send a written notice of objection to Class Counsel by no later than **10 days prior** to the Approval Hearing. Your written objection should include: (a) your name, address, e-mail address and telephone number; (b) a brief

statement of the reasons for your objection; and (c) whether you plan to attend the settlement-approval hearing in person or through a lawyer, and if by lawyer, the name, e-mail address and telephone number of the lawyer. Class Members who do not oppose the Settlement Agreement need not appear at the settlement-approval hearing or take any other action at this time.

IMPORTANT DATES – WHEN TO MAKE A CLAIM:

Immediately - the Claim Form is already available on the Settlement Website at www.FitFlopSettlement.ca or you can obtain one by contacting the Claims Administrator at 1-800-XXX-XXXX. A Claim Form must be postmarked, sent by e-mail or completed on the Settlement Website no later than 60 days after the later of the Approval Order issued by the Superior Court of Quebec and the Discontinuance Order issued by the Ontario Superior Court of Justice (the “Claims Filing Deadline”). There will be no further notice in the newspapers of the Settlement Agreement. The exact date of the Claims Filing Deadline will be posted on Settlement Website. It is the responsibility of any Class Member who wishes to make a claim to check this website in a timely manner.

Claims will only be processed and payments made to Class Members who file valid Claim Forms on time and subject to the approval of the Settlement Agreement by the Quebec Court .

FURTHER INFORMATION:

A complete copy of the Settlement Agreement, and detailed information on how to obtain or file a Claim Form are available on the following Settlement Website [ADDRESS]. To obtain a paper copy, please call the Claims Administrator at [PHONE NUMBER].

The law firm representing the Class Members is the following:

Mtre Jeff Orenstein
Consumer Law Group Inc.
1030 Berri St., Suite 102
Montreal, Quebec, H2L 4C3
Phone: 1-888-909-7863
514-266-7863
416-479-4493
Fax: 514-868-9690
jorenstein@clg.org

If there should be a conflict between the provisions of this Pre-Approval Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

This notice has been approved by the Superior Court of Quebec.

**SCHEDULE “E”
PRE-APPROVAL ORDER**

**SUPERIOR COURT
(CLASS ACTION)**

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL**

No.: 500-06-000629-127

EMILY CUNNING

Plaintiff

v.

FITFLOP LIMITED

Defendant

JUDGMENT ON PRE-APPROVAL NOTICE

1. Plaintiff seeks to approve the form and content of the Pre-Approval Notice, for approval of the method of dissemination of the Pre-Approval Notice (the “Notice Plan”), to approve the form and content of the Claim Form, and to approve the form and content of the Opt-Out Form (the “**Motion**”).
2. The present motion arises in the context of an Amended Motion to Authorize the Bringing of a Class Action & to Ascribe the Status of Representative (the “**Motion for Authorization**”), which was authorized by the Court on February 20, 2014.
3. In its authorization judgment, this Court authorized and described the class as follows: “all residents of Quebec who purchased FitFlop Footwear (*“toutes les personnes résidant au Québec qui ont achetés des chaussures FitFlop”*)”.
4. The parties, through their respective counsel, entered into good faith settlement discussions and have drafted a settlement agreement (the “**Settlement Agreement**”) whereby

they have agreed to resolve all judicial claims, without any admissions whatsoever, and subject to various terms and conditions, including the approval by this Court.

5. The Settlement Agreement purports to settle this action as well as a parallel class action proceeding pending before the Ontario Superior Court of Justice under file number 14-60155.

6. Approval of the Settlement Agreement by the Superior Court of Quebec (the “**Quebec Court**”) and a discontinuance of the class proceeding before Ontario Superior Court of Justice (the “**Ontario Court**”) are explicit conditions of the settlement.

7. The Settlement Agreement defines the proposed class as follows:

- All residents of Canada who have purchased FitFlop Footwear up to and including the date of the Pre-Approval Order.

8. Accordingly, the Plaintiff seeks leave to publish a Pre-Approval Notice advising class members of the fact that a Settlement Agreement has been reached, that this Settlement Agreement will be submitted for approval on a date to be specified by this Court, that they may voice an objection to the proposed settlement, how to opt-out of the settlement and how to file a valid claim form.

9. The Plaintiff submits that the proposed Pre-Approval Notice conforms with the requirements of the *Code of Civil Procedure*.

10. The Pre-Approval Notice, if approved by both this Court will be:

- Published in the form of a 1/3-page advertisement in a weekly edition of *La Presse+* (in French) and *The Globe and Mail* (In English);
- Posted on a specially designated website maintained by the claims administrator selected by the parties;
- Posted on the website of Plaintiff’s counsel;
- Posted on the Plaintiff’s counsel Facebook page;
- Released in French and English via newswire;

FOR THESE REASONS, THE COURT:

GRANTS the Motion;

DESCRIBES as follows the class for the purposes of the Pre-Approval Notice:

- All residents of Canada who have purchased FitFlop Footwear up to and including the date of the Pre-Approval Order.

ORDERS that, except as otherwise specified in, or as modified by this Judgment, capitalized terms used herein shall have the meaning ascribed in the Settlement Agreement, **Exhibit R-1**;

APPROVES the Pre-Approval Notice attached hereto as **Exhibit R-2**;

ORDERS that the Pre-Approval Notice be disseminated by having it:

- Published in the form of a 1/3-page advertisement in a weekly edition of *La Presse+* (in French) and *The Globe and Mail* (In English);
- Posted on a specially designated website maintained by the claims administrator selected by the parties;
- Posted on the website of Plaintiff's counsel;
- Posted on the Plaintiff's counsel Facebook page;
- Released once in French and English via newswire;

ORDERS that _____ shall be provisionally appointed as Claims Administrator for the purposes of coordination of the Notice Plan, administration of objections, opt-out forms, claim forms and related tasks, including establishing the Settlement Website for purposes of posting the Pre-Approval Notice, Settlement Agreement and all related documents;

ORDERS that, in accordance with the terms of the Settlement Agreement, the Claims Administrator shall pay the costs associated with the Pre-Approval Notice approved herein from the Account;

APPROVES the Claim Form attached hereto as **Exhibit R-3**;

APPROVES the Opt-Out Form attached hereto as **Exhibit R-4**;

SETS the deadline for Class Members to object to the Settlement Agreement as no later than 10 days before the hearing to approve the Settlement Agreement;

SETS the "Effective Date" as the date which is 30 days after the later date on which a settlement-approval order has been signed and entered by the Quebec Court and a discontinuance order has been signed and entered by the Ontario Court, provided that no appeal has been brought or, if any appeal has been brought, the date which is 30 days after such an appeal is finally resolved so as to permit the consummation of the settlement in accordance with the terms and conditions of the Settlement Agreement;

SETS the deadline for filing a claim as no later than 60 days after the Effective Date;

SETS the deadline for opting-out as no later than 45 days following the Approval Order;

ORDERS that the Settlement Approval Hearing is to be held on **Month 00, 2016** at **•** at the Montreal Courthouse, 1, Notre-Dame Street East, at which time this Court will be asked to decide:

- a) whether to approve the Settlement Agreement as fair, reasonable and in the best interest of the Class Members;
- b) whether Class Counsel's application for fees, disbursements and applicable taxes should be granted;
- c) whether to grant an honorarium award to the Class Representatives; and
- d) any other matters as the Court may deem appropriate;

ORDERS that the date and time of the Settlement Approval Hearing shall be set forth in the Pre-Approval Notice, but may be subject to adjournment by the Court without further publication notice to the Class Members other than such notice which will be posted on the Settlement Website;

ALL OF WHICH, without costs.

MARIE GAUDREAU, J.S.C.

SCHEDULE "F"

DISCONTINUANCE ORDER

Court File No. 14-60155

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
MISTER JUSTICE SMITH

)
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)

DATE

J. M. Murray

Plaintiff

- and -

FITFLOP LIMITED

Defendant

Proceedings under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an Order discontinuing this Action without costs was heard on [DATE];

UPON READING the material filed, including [INSERT RELEVANT MATERIALS], and on hearing the submissions of counsel for all Parties, and having been advised that the Parties consent hereto to an Order discontinuing this Action without costs;

1. **THIS COURT ORDERS** that leave be given to the Plaintiff to discontinue this Action without costs on consent of all Parties.

JUSTICE ROBERT SMITH

SCHEDULE "G"
APPROVAL ORDER

SUPERIOR COURT
(CLASS ACTION)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

No.: 500-06-000629-127

EMILY CUNNING

Plaintiff

v.

FITFLOP LIMITED

Defendant

JUDGMENT

1. CONSIDERING Plaintiff's amended motion to authorize the bringing of a class action and to ascribe the status of representative and Plaintiff's motion to approve the settlement agreement;
2. CONSIDERING that on February 20, 2014, the Quebec Class Action was authorized by this Court on behalf of all Quebec residents who purchased FitFlop Footwear ("*toutes les personnes résidant au Québec qui ont acheté des chaussures FitFlop*");
3. CONSIDERING the settlement entered into between the Plaintiff and the Defendant as reflected in the Canadian Class Action Settlement Agreement dated July 5, 2016 (the "Settlement Agreement") to settle all claims asserted in or related to the present class proceedings, without any admission of liability or wrongdoing by FitFlop, and for the purpose of resolving the dispute between them;
4. CONSIDERING that the Settlement Agreement is intended to settle this action, as well as, a parallel class action proceeding pending before the Ontario Superior Court of Justice under file number 14-60155;

5. CONSIDERING that both the approval of the Settlement Agreement by the Superior Court of Quebec (the “Quebec Court”) and the discontinuance of the class proceeding before the Ontario Superior Court of Justice (the “Ontario Court”) are explicit conditions of the settlement;
6. CONSIDERING the material filed in the Court record and the submissions of counsel for the Plaintiff and counsel for the Defendant;
7. CONSIDERING articles 574, 575, 579, 581 and 590 C.C.P.;
8. CONSIDERING that this Court is of the opinion that the Settlement Agreement reached between the parties is fair, reasonable and in the best interest of Class Members and complies with article 590 C.C.P.;

FOR THESE REASONS, THE COURT:

GRANTS the present motion;

ORDERS that, except as otherwise specified in, or as modified, by this Judgment, capitalized terms used herein shall have the meaning ascribed in the Settlement Agreement;

AMENDS the class description in the judgment authorizing the class action to include all Canadians who have purchased FitFlop Footwear;

DESCRIBES the settlement class as follows:

- All residents of Canada who have purchased FitFlop Footwear up to and including the date of the Pre-Approval Order.

DECLARES that the Settlement Agreement (including its recitals and its schedules) constitutes a transaction within the meaning of articles 2631 and following of the *Civil Code of Quebec*, binding all parties and all Class Members who have not opted-out;

DECLARES that the settlement agreement is valid, fair, reasonable and in the best interests of the Class Members, the Representative Plaintiff and the Defendant;

APPROVES the Settlement Agreement;

DECLARES that the Settlement Agreement in its entirety (including its recitals and schedules) is an integral part of this judgment;

ORDERS the parties and the Class Members, except those who have opted-out, to conform themselves to the Settlement Agreement;

ORDERS that each Class Member who wishes to opt out of the Settlement Agreement do so in conformity with the Settlement Agreement and the Opt-Out Form;

DECLARES that, to be eligible, Claim Forms must be completed and submitted in the manner stipulated by the Settlement Agreement;

ORDERS that _____ is hereby appointed as Claims Administrator for the settlement;

APPROVES the payment to Class Counsel of its fees and expenses in the amount provided for in the Settlement Agreement;

APPROVES the payment to the Representative Plaintiffs of the Honorarium Awards in the amount provided for in the Settlement Agreement;

DECLARES that any and all Class Members who have not opted out of the Settlement Agreement are deemed to release FitFlop limited from any and all liabilities, claims, cross-claims, causes of action, rights, actions, suits, debts, liens, contracts, agreements, damages, restitution, disgorgement, costs, attorney fees, losses, expenses, obligations or demands, of any kind whatsoever that the Releasing Persons may have or may have had, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis or on behalf of the general public, whether known or unknown, suspected or unsuspected, threatened, asserted or unasserted, actual or contingent, liquidated or unliquidated, that were alleged or which could have been alleged in the Litigation, regarding any representations surrounding the FitFlop Footwear sold or marketed in Canada, including without limitation, claims relating to any alleged misrepresentation or failure to disclose involving FitFlop Footwear sold or marketed in Canada and bought or obtained by the Representative Plaintiffs or Class Members, but not including claims for bodily injury;

ORDERS that, should there be a balance in the Settlement Fund following payment of all Notice Costs, Class Counsel Fees and Expenses and Honorarium Awards, Claims Administration Fees and Expenses and Settlement Benefits, the *Fonds d'aide aux actions collectives* may claim the percentage of the balance that it is entitled to under law. Such a claim shall be limited to the proportionate share of Settlement Benefits provided to Quebec Class Members;

ORDERS that the amount remaining in the Settlement Fund after any claim made by the *Fonds d'aide aux actions collectives* has been deducted shall be paid to the Canadian Podiatric Medical Association;

RESERVES the right of parties to ask the Court to settle any dispute arising from the Settlement Agreement;

ALL OF WHICH, without costs.

MARIE GAUDREAU, J.S.C.

SCHEDULE "H"

CLAIMS PROTOCOL

The Claims Protocol (the "**Protocol**") is part of the Settlement Agreement and shall be used by the Claims Administrator to review and process those Claims Forms submitted pursuant to the Settlement Agreement and otherwise implement the terms of the claim review and administration process. All capitalized terms used in this Protocol shall have the same meaning given them in the Settlement Agreement.

1. Timeline

- a) The deadline for the Claims Administrator to pay Class Counsel Fees and Expenses is no later than five (5) business days after the Effective Date.
- b) The deadline for Class Members to opt-out is forty-five (45) days following Approval Order.
- c) The deadline for the Claims Administrator to provide Class Counsel and Defence Counsel with a list of all Opt-Out Forms is no later than five (5) days following the Opt-out Deadline.
- d) The Claims Filing Deadline is sixty (60) days after the Effective Date (i.e., the date which is thirty (30) days after the later date on which an Approval Order has been signed and entered by the Quebec Court and the Discontinuance Order has been signed and entered by the Ontario Court, provided that no appeal has been brought, or if any appeal has been brought, the date which is 30 days after such an appeal is finally resolved so as to permit the consummation of the settlement in accordance with the terms and conditions of the Settlement Agreement).
- e) The deadline for advising a Class Member of a deficient claim is 30 days after the Claims Filing Deadline.
- f) The deadline for a Class Member to cure a deficiency is fourteen (14) days after the mailing of a deficiency letter by the Claims Administrator.
- g) The deadline for the Claims Administrator to provide Defence Counsel and Class Counsel, on a confidential basis, with the details of the claims process, namely details regarding the total amount of claims received, accepted or denied, the total amount of money claimed and the total amount of Settlement Benefits to be disbursed is seventy-five (75) days after the Claims Filing Deadline.
- h) The deadline for resolving any dispute involving a deficient claim is eighty (80) days following the Claims Filing Deadline.
- i) The deadline for the Claims Administrator to provide Settlement Benefits is one hundred (100) days after the Claims Filing Deadline.

- j) In the event of a remainder, the deadline for paying the *Fonds d'aide aux actions collectives* and making a charitable contribution to the Canadian Podiatric Medical Association is six (6) months after the payments are issued to Claimants.

Unless otherwise ordered by the Quebec Court or the Ontario Court, these deadlines can be extended by the mutual consent of Class and Defence Counsel.

2. The Claims Administrator's Roles and Duties

- a) The Claims Administrator shall be selected by the agreement of the Parties and recommended to and approved by the Quebec Court.
- b) The Claims Administrator must consent, in writing, to serve and shall abide by the obligations of the Settlement Agreement, this Protocol, and the any orders issued by the Quebec Court.
- c) After having deducted Notice Costs and Class Counsel Fees and Expenses, the Claims Administrator shall calculate: (i) the costs and expenses associated with claims administration fees and expenses; and (ii) the total Settlement Benefits due to Class Members who have filed valid Claim Forms.
- d) The Claims Administrator shall warrant that it knows of no reason why it cannot fairly and impartially administer the claim-review process set out in the Settlement Agreement. If the Claims Administrator, Defence or Class Counsel learns of a conflict of interest, that party shall give written notice to the other parties, who shall resolve any such circumstance by further written agreement. Any unresolved dispute over such conflict of interest shall be submitted to the Quebec Court for resolution. The Claims Administrator shall indemnify and defend the Parties and their counsel against any liability arising from the Claims Administrator's breach of this provision.
- e) The Claims Administrator shall keep a clear and careful record of all communications with Class Members, all claims decisions, all expenses, and all tasks performed in administering the Pre-Approval Notice and claim-review process.
- f) The Claims Administrator shall provide periodic reports to Class Counsel and Defence Counsel regarding Claim Form submissions.
- g) The actual cost of the Claims Administrator shall be paid from the Settlement Fund on the basis of approved invoices.
- h) Fees paid to the Claims administrator shall not exceed \$50,000, plus any and all applicable taxes.
- i) The Claims Administrator shall take all reasonable efforts to administer the Claim Forms efficiently and avoid unnecessary fees and expenses. The Claims Administrator shall only be reimbursed for fees and expenses supported by detailed and clear timesheets and receipts for costs. As soon as work commences, the Claims Administrator shall provide a detailed written accounting of all fees and expenses on

a monthly basis to Class and Defence Counsel, and shall respond promptly to enquiries by these counsel concerning fees and expenses.

- j) The Parties are entitled to observe and monitor the performance of the Claims Administrator to assure compliance with the Settlement Agreement and this Protocol. The Claims Administrator shall promptly respond to all enquiries and requests for information made by FitFlop, Defence Counsel or Class Counsel.

3. Providing and Submitting Claim Forms

- a) The Claim Form, which is in substantially the form attached as Schedule “B” of the Settlement Agreement, shall be available on the Settlement Website or by contacting the Claims Administrator. The Claim Form on the Settlement Website and the hard copy Claim Form shall be consistent in content.
- b) The Claims Administrator shall establish and maintain the Settlement Website, which shall be easily accessible for the submission of Claim Forms. The Settlement Website shall be designed to permit Class Members to readily and easily submit Claim Forms and obtain information about the Class Members’ rights and options under the Settlement Agreement. The Settlement Website shall be maintained continuously until the claims process has come to an end.
- c) The Claims Administrator also shall establish a toll-free telephone number that will have recorded information answering questions about the Settlement Agreement, including, but not necessarily limited to, the instructions about how to request a Claim Form and/or the Pre-Approval Notice, as well as an option to reach a live operator. This and all other services described herein shall be provided in French and English.

4. Claim Form Review and Processing

- a) Class Members may submit a Claim Form to the Claims Administrator up to the Claims Filing Deadline. Class Members shall be eligible for the relief provided in the Settlement Agreement, provided Class Members complete and submit the Claim Form to the Claims Administrator by the Claims Filing Deadline.
- b) The Claims Administrator shall complete the claim review process within the time period specified in the Settlement Agreement.
- c) The Claims Administrator shall gather and review the Claim Forms received pursuant to the Settlement Agreement and pay valid claims.
 - i. The Claims Administrator shall examine the Claim Form before determining that the information on the Claim Form is reasonably complete and contains sufficient information to enable the mailing of the Settlement Benefits to the Class Member.
 - ii. No Class Member may submit more than one Claim Form. The Claims Administrator shall identify any Claim Forms that appear to seek relief on behalf

of the same Class Members (“**Duplicative Claim Forms**”). The Claims Administrator shall determine whether there is any duplication of Claims Forms, if necessary by contacting Claimants. The Claims Administrator shall designate any such Duplicative Claim Forms as invalid to the extent that they make the same claim(s) on behalf of the same Class Member.

- iii. The Claims Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse, and take any reasonable steps to prevent fraud and abuse in the claims process. The Claims Administrator may, in its discretion, deny in whole or in part any Claim Form to prevent fraud or abuse.
 - iv. By agreement of the Parties expressed through their counsel, the Parties may instruct the Claims Administrator to take whatever steps they deem appropriate to preserve the Settlement Fund in order to further the purpose of the Settlement Agreement if the Claims Administrator identifies actual or possible fraud or abuse relating to the submission of Claim Forms, including, but not limited to, denying in whole or in part any Claim Form submitted after the Claims Filing Deadline.
- d) The Claims Administrator shall provide monthly reports to Defence and Class Counsel regarding the implementation of the Settlement Agreement and this Protocol.
- e) If a Claim Form cannot be processed without additional information, the Claims Administrator shall promptly notify the Parties through their counsel and mail a letter that advises the Claimant of the additional information and/or documentation needed to validate the Claim Form. The Claimant shall have fourteen (14) days from the date of the postmarked letter sent by the Claims Administrator to respond to the request from the Claims Administrator and the Claimant shall be so advised.
- i. In the event the Claimant timely provides the requested information, the Claim Form shall be deemed validated and shall be processed for payment.
 - ii. In the event the Claimant does not timely provide the information, the Claim Form may be denied or the claim reduced to the amount of Settlement Benefits supported by the documentation without further communication with the Claimant.
- f) A Claimant shall be provided with only one opportunity to cure a deficiency.
- g) If a Claim Form is denied or the claim reduced because the Claims Administrator determined that the additional information and/or documentation was not sufficient to substantiate the Claim Form, the Claims Administrator shall provide a report to Defence and Class Counsel who shall meet and confer in an attempt to resolve these Claims Forms. If Class Counsel reasonably recommends payment of the Settlement Benefits claimed or payment of a reduced amount of Settlement Benefits, and if the Defendant agrees, then the Claims Administrator shall be instructed to pay those benefits.

- h) If Class and Defence Counsel are unable to resolve a disputed Claim Form under paragraph g) above, they shall submit this dispute for decision to the Quebec Court.
- i) The Claims Administrator shall provide all information gathered in investigating Claim Forms, including, but not limited to, copies of all correspondence and e-mail and all notes of the Claims Administrator, the decision reached, and all reasons supporting the decision, if requested by Class or Defence Counsel.