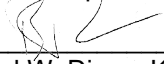


Amended pursuant to Rule 6-1(1)(b)(ii) with consent of:

  
\_\_\_\_\_  
Brad W. Dixon, K.C.

Lawyer for the defendants

No. S240406  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Between

AMIR HOSSEIN BAHRAINI

PLAINTIFF

and

CINEPLEX INC. AND CINEPLEX ENTERTAINMENT LP LIMITED PARTNERSHIP

DEFENDANT

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**AMENDED NOTICE OF CIVIL CLAIM**

(Original Notice of Civil Claim filed January 22, 2024)  
(Unlawful Pricing Practices)

**This action has been started by the plaintiff for the relief set out in Part 2 below.**

- If you intend to respond to this action, you or your lawyer must
- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
  - (b) serve a copy of the filed response to civil claim on the plaintiff.

- If you intend to make a counterclaim, you or your lawyer must
- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
  - (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

**Time for response to civil claim**

- A response to civil claim must be filed and served on the plaintiff,
- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
  - (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,

- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

## **THE PLAINTIFF'S CLAIM**

### **Part 1: STATEMENT OF FACTS**

#### ***Overview***

1. Consumers expect to pay the lowest price that a company represents a product will cost at a given time. Parliament has codified this principle through sections 52 and 54 of the *Competition Act*, RSC 1985, c C-34 (the “**Competition Act**”) which require that companies represent the full cost of a product upfront, prohibiting companies from charging the higher of two different advertised prices for a product. These provisions ensure that companies’ pricing practices are fair, transparent and straightforward.

2. Through its website and mobile app, Cineplex has engaged in conduct contrary to the *Competition Act* in its pricing of movie tickets on its booking platforms. Cineplex represents a price for a movie ticket that is, unbeknownst to consumers, unattainable, and thereafter increases the purchase price once a consumer is prepared to purchase the ticket. Cineplex’s practice of concealing the full cost of, and/or representing two different prices for, movie tickets on its booking platforms is unfair and in violation of Canadian law.

#### ***The Parties***

3. The Plaintiff, Amir Hossein Bahraini, is a resident of British Columbia and a member of Cineplex’s Scene+ rewards program. The Plaintiff purchased two Movie Tickets through Cineplex Mobile on October 20, 2023 to view “Oppenheimer” and was charged a \$2.00 Online Booking Fee (\$1.00 per ticket). The Plaintiff was also charged tax on the Online Booking Fee.

4. The Plaintiff brings this action on his own behalf and on behalf of all individuals and legal persons in Canada, excluding Quebec, who paid an Online Booking Fee when purchasing a Movie Ticket through [www.cineplex.com](http://www.cineplex.com) or Cineplex Mobile from the date

on which Cineplex began charging Online Booking Fees in Canada until the date that this action is certified as a class proceeding (the “**Class**”, “**Class Members**” and “**Class Period**”).

5. The Defendant Cineplex Inc. is a company incorporated pursuant to the laws of Ontario with a registered address for service at 1800 – 510 West Georgia Street, Vancouver, BC, V6B 0M3, Canada. Cineplex Inc. carries on business in British Columbia and Canada by offering online movie reservation services through their website and mobile application.

6. The Defendant Cineplex Entertainment LP Limited Partnership is a company incorporated pursuant to the laws of Manitoba with a registered address for service at 1800 – 510 West Georgia Street, Vancouver, BC, V6B 0M3, Canada. Cineplex Entertainment LP Limited Partnership carries on business in British Columbia and Canada by offering online movie reservation services through their website and mobile application.

7. Cineplex Inc. and Cineplex Entertainment LP Limited Partnership are collectively “**Cineplex**”.

### ***Cineplex’s Sale of Movie Tickets***

8. Cineplex is Canada’s largest movie theatre operator. Cineplex sells tickets to movies online through its website, [www.cineplex.com](http://www.cineplex.com), and mobile application, Cineplex Mobile. [www.cineplex.com](http://www.cineplex.com) and Cineplex Mobile are the “**Booking Platforms**”. The Booking Platforms function in a substantially similar fashion. Tickets sold through the Booking Platforms are the “**Movie Tickets**”.

9. The access to and use of each of the Booking Platforms to purchase Movie Tickets constitutes the “**Online Ticket Services**”. The supply of the Online Ticket Services lasts from when users enter the Booking Platforms until users depart the Booking Platforms.

10. Cineplex also sells tickets in-person at movie theatres. This action is only concerned with tickets purchased on the Booking Platforms.

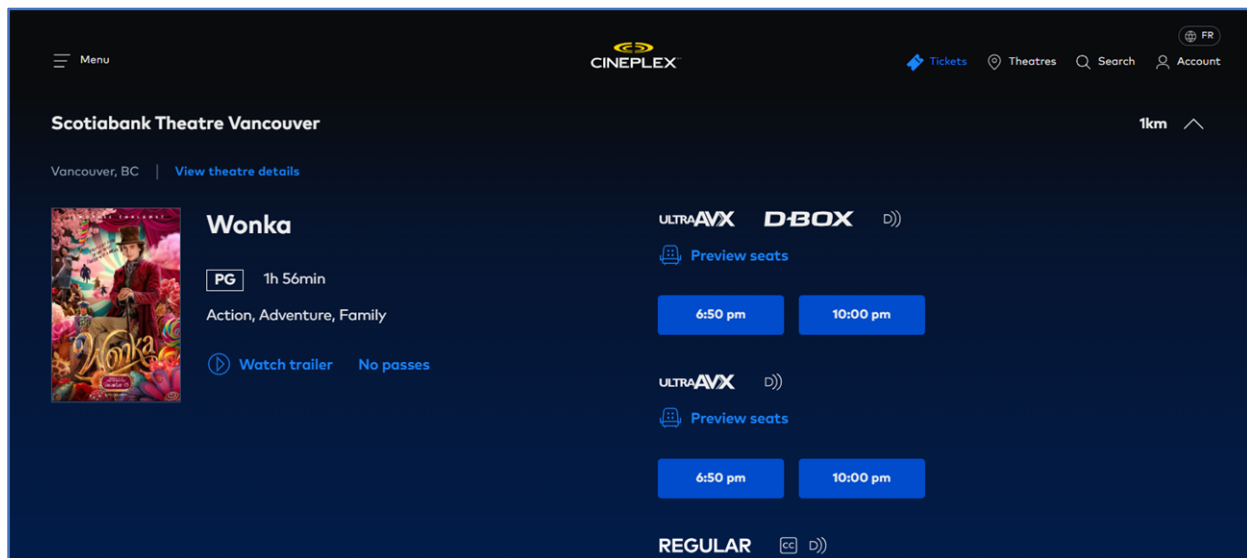
## **The Online Booking Fee**

11. In or around June 2022, Cineplex began charging an “Online Booking Fee” of \$1.50 for each movie ticket purchased through the Booking Platforms, up to a maximum of four tickets (the “**Online Booking Fee**”). Cineplex reduces this fee to \$1.00 for members of Cineplex’s rewards program Scene+ and does not charge the fee to individuals who pay a monthly or annual subscription to join Cineplex’s CineClub.

## **Purchasing Movie Tickets Through the Booking Platforms**

### Purchasing Movie Tickets on [www.cineplex.com](http://www.cineplex.com)

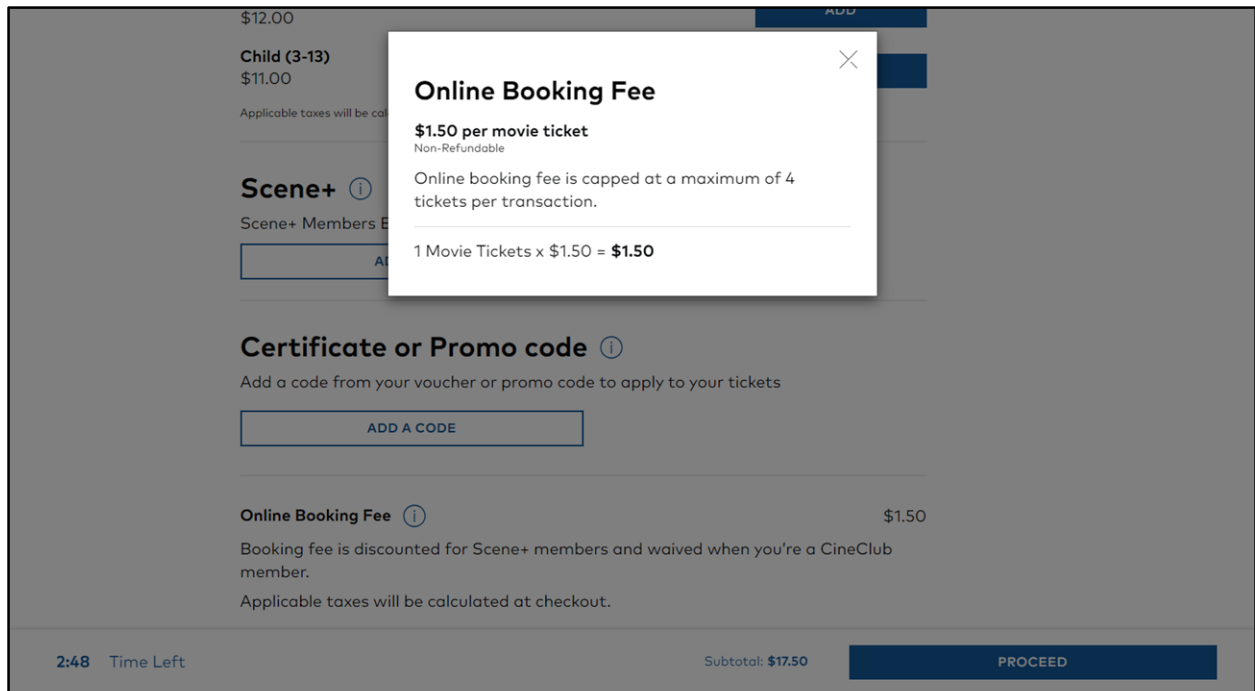
12. Users must log into their Cineplex account to purchase movie tickets on [www.cineplex.com](http://www.cineplex.com). After logging into their account, individuals must select a theatre location, movie and showtime.



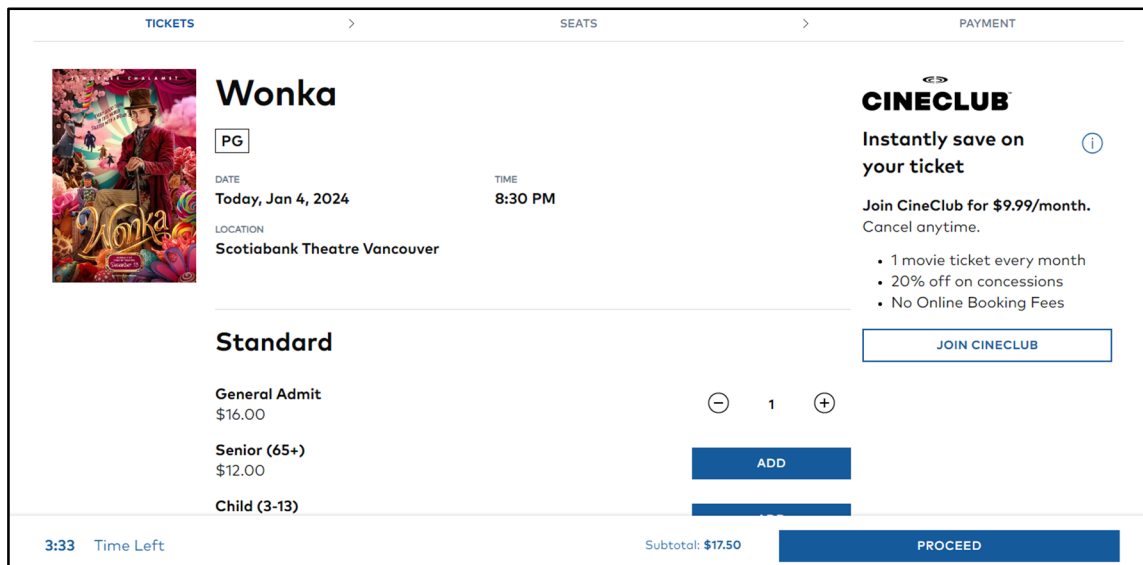
13. After a user selects a theatre and showtime for a movie at that theatre, the user is taken to a webpage on the Booking Platform where Cineplex represents the price for a movie ticket (the “**First Price**”). For example, Cineplex represents the First Price of a “General Admit” movie ticket as \$16.00. Cineplex also represents the subtotal for the user’s purchase on a ribbon at the bottom of the screen.

14. At the bottom of the webpage, Cineplex represents that users will be charged an Online Booking Fee in addition to the cost of their Movie Ticket(s). Users must scroll past the First Price in order to see information about the Online Booking Fee.

15. Clicking on the encircled blue “i” next to the words “Online Booking Fee” generates a pop-up wherein Cineplex defines the “Online Booking Fee”:



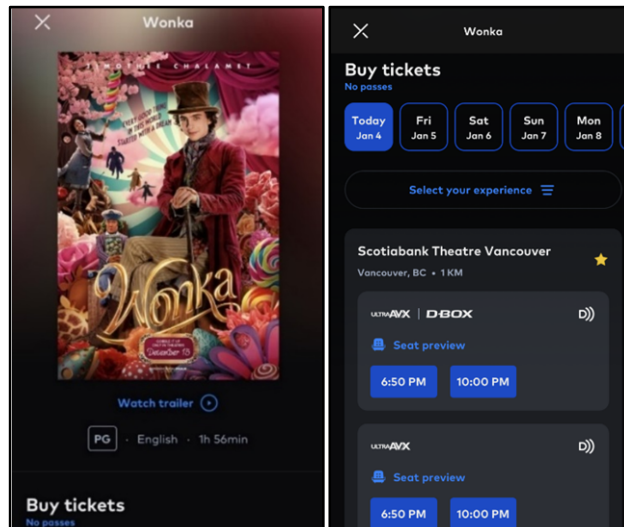
16. After a user clicks “Add” next to a type of Movie Ticket, the ticket is added to their cart and the user’s subtotal is updated at the bottom of the webpage. The subtotal consists of both the First Price and the Online Booking Fee:



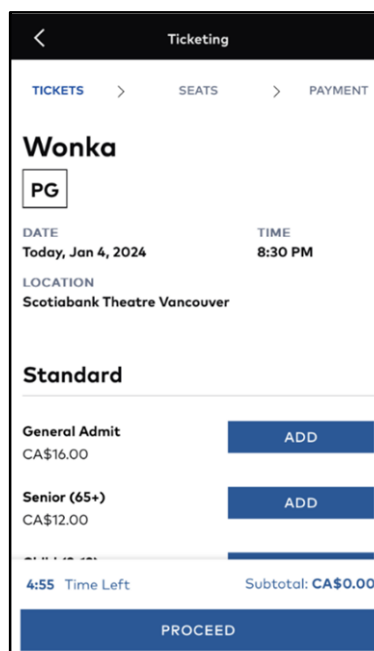
17. In this example, instead of charging the represented First Price of \$16.00 (plus taxes) for a “General Admit” movie ticket, Cineplex charges \$17.50 (plus taxes). The First Price plus the Online Booking Fee is the “**Second Price**”.

## Purchasing Movie Tickets on Cineplex Mobile

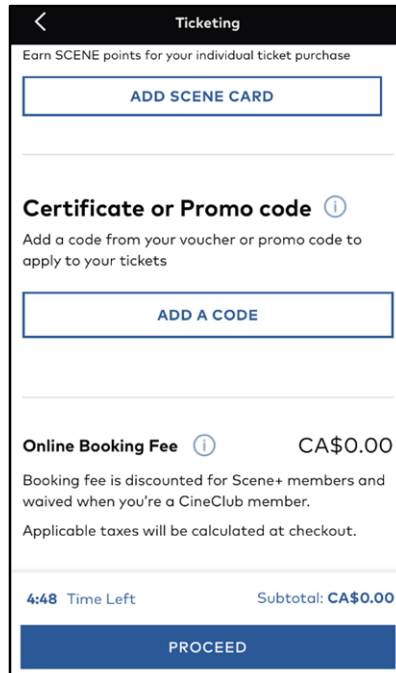
18. To purchase movie tickets on Cineplex Mobile, users must log into their Cineplex account. After logging into their account, users must select a theatre location, movie and showtime.



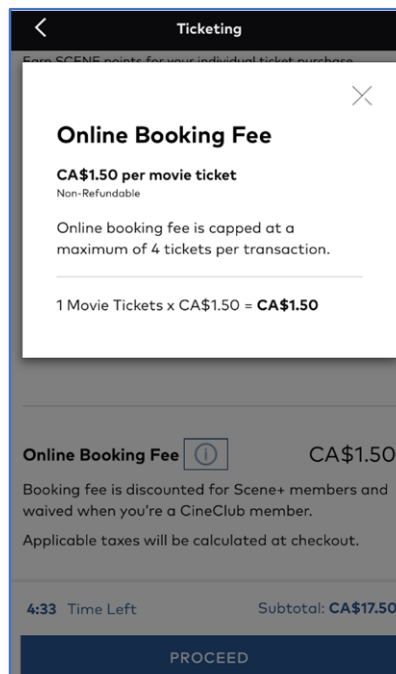
19. After a user selects a theatre and showtime for a movie, the user is taken to a mobile page on the Booking Platform where Cineplex represents the First Price for various ticket options. For example, Cineplex represents the First Price of purchasing a "General Admit" movie ticket as \$16.00. Cineplex also represents the subtotal for the user's purchase on a ribbon at the bottom of the screen.



20. At the bottom of the mobile page, Cineplex represents that users will be charged an additional \$1.50 per ticket, referred to by Cineplex as an “**Online Booking Fee**” in addition to the cost of their Movie Ticket(s). Users must scroll past the First Price to see the Online Booking Fee.

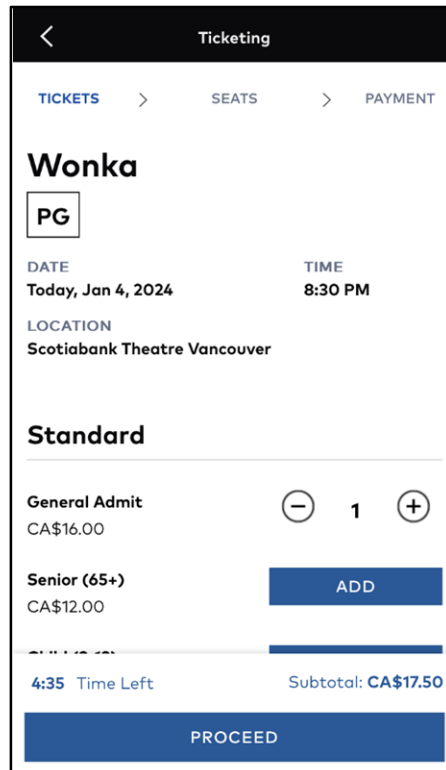


21. Clicking on the encircled blue “i” next to the words “Online Booking Fee” generates a pop-up wherein Cineplex explains the “Online Booking Fee”:





22. After a user clicks “Add” next to a type of Movie Ticket, the ticket is added to their cart and the user’s subtotal is updated at the bottom of the mobile page to display the higher Second Price, which is the price that Cineplex charges the user:



23. In this example, instead of charging the represented First Price of \$16.00 (plus taxes) for a “General Admit” movie ticket, Cineplex charges \$17.50 (plus taxes).

### ***Cineplex’s Misconduct***

24. At all material times, Cineplex represented and clearly expressed that the Movie Tickets and/or the Online Ticket Services were available at the First Price. Cineplex represented and clearly expressed the First Price on the Booking Platform, which constitutes a point-of-purchase display.

25. At all material times, Cineplex represented and clearly expressed that the Movie Tickets and/or the Online Ticket Services were available at the Second Price. Cineplex represented and clearly expressed the Second Price on the Booking Platform, which constitutes a point-of-purchase display.

26. At all material times, the Movie Tickets and/or the Online Ticket Services were not available at the First Price due to the addition of the Online Booking Fee, which constitutes a fixed obligatory charge or fee.

27. At all material times, Cineplex represented two different prices for the Movie Tickets and/or the service of accessing and using the Booking Platforms (with the service being the Online Ticket Services).

28. Cineplex did not represent the Online Booking Fee or the Second Price at the time it represented the First Price to users. At all material times, the Second Price exceeded the First Price. At all material times, Cineplex charged, and users paid, the Second Price.

29. At all material times, Cineplex represented the First Price and the Second Price at the same stage of the booking process. Cineplex did not add an additional service element or provide an additional service when it added the Online Booking Fee. The Online Ticket Services remained the same product at every stage of the booking process.

30. Cineplex's representation of the First Price was false and misleading because users were never able to pay the First Price but instead had to pay the higher Second Price.

31. At all material times, Cineplex knew or was reckless or willfully blind to the fact that representing that the Movie Tickets and/or the Online Ticket Services would cost the First Price when these products were not available at the First Price was false or misleading in a material respect.

### ***Harm to the Plaintiff and Class Members***

32. As a result of Cineplex's breach or breaches of the *Competition Act*, the Plaintiff and Class Members suffered loss and/or damage in an amount equal to the difference between the Second Price and the First Price, plus tax on that difference. This difference is composed of the Online Booking Fees, plus taxes on the Online Booking Fees, paid by the Plaintiff and Class Members during the Class Period.

33. Due to Cineplex's representations that the Movie Tickets and/or the Online Ticket Services were available at the First Price, the Plaintiff and Class Members obtained less value than they had expected to obtain after having viewed the First Price because the Movie Tickets and/or the Online Ticket Services were unattainable at the First Price and could only be purchased at the Second Price.

## **Part 2: RELIEF SOUGHT**

34. The plaintiff claims on his own behalf and on behalf of other members of the Class:

- a) an order certifying this action as a class proceeding under the *Class Proceedings Act*, RSBC 1996, c 50 (the "**Class Proceedings Act**");
- b) a declaration that Cineplex has engaged in conduct contrary to Part VI of the *Competition Act*;
- c) damages under section 36 of the *Competition Act* in the amount of the difference between the Second Price and the First Price, plus taxes on the difference, paid by the Plaintiff and Class Members during the Class Period;
- d) costs of investigation and prosecution of this proceeding pursuant to section 36 of the *Competition Act*;
- e) pre-judgment and post-judgment interest under the *Court Order Interest Act*, RSBC 1996, c 79 (the "**Court Order Interest Act**"); and
- f) such further and other relief as this Honourable Court may deem just.

## **Part 3: LEGAL BASIS**

35. The Plaintiff and Class Members plead and rely on the *Competition Act*, the *Class Proceedings Act*, the *Limitation Act*, SBC 2012, c 13, the *Court Order Interest Act*, RSBC 1996, c 79, the Supreme Court Civil Rules, and related enactments.

## ***Competition Act***

36. The *Competition Act* applies to business transacted in Canada.

37. Cineplex has breached sections 52 and/or 54 of the *Competition Act*, as amended from time to time.

38. Each Movie Ticket, and/or the Online Ticket Services, constitutes a “product” within the meaning of sections 2, 52 and 54 of the *Competition Act*.

### ***Competition Act – Section 52***

39. Section 52 of the *Competition Act* prohibits false or misleading representations.

40. Section 52(1.3) of the *Competition Act* prescribes that making a representation of a price that is not attainable due to fixed obligatory charges or fees constitutes a false or misleading representation. This conduct is known as drip pricing.

41. From June 23, 2022 onward, Cineplex breached section 52(1.3) of the *Competition Act* by representing that the Movie Tickets and/or the Online Ticket Services were available at the First Price when Cineplex knew or was reckless or willfully blind to the fact that this representation was false or misleading in a material respect.

42. Cineplex’s representations that the Movie Tickets, or alternatively the Online Ticket Services, were available at the First Price were false or misleading in a material respect because the Movie Tickets and/or the Online Ticket Services were not attainable at the First Price due to the addition of the Online Booking Fee, which constitutes a fixed obligatory charge.

43. This conduct was done for the purpose of promoting, directly or indirectly, the supply or use of the Movie Tickets and/or the Online Ticket Services and Cineplex’s business interests in attracting customers to purchase the Movie Tickets, and/or to use the Online Ticket Services.

44. The First Price was represented on a point-of-purchase display or was otherwise made available to members of the public.

45. As a result of Cineplex's breach of section 52 of the *Competition Act*, the Plaintiff and Class Members suffered loss and/or damage. In particular, by paying the Second Price for the Movie Tickets and/or the Online Ticket Services, the Plaintiff and Class Members obtained less value than they had expected to obtain after having viewed the First Price because the Movie Tickets and/or the Online Ticket Services, were unattainable at the First Price and could only be purchased at the Second Price.

#### ***Competition Act – Section 54***

46. Section 54 of the *Competition Act* prohibits the supply of a product at a price that exceeds the lowest of two or more prices which are clearly expressed on, *inter alia*, a point-of-purchase display. This conduct is referred to as double ticketing.

47. Cineplex clearly expressed both the First Price and the Second Price on the point-of-purchase displays on the Booking Platforms and supplied the Movie Tickets, or alternatively the Online Ticket Services, at the Second Price, which exceeded the First Price.

48. The Plaintiff and Class Members were entitled to pay Cineplex only the First Price, plus lawful taxes, for the Movie Tickets, or alternatively the Online Ticket Services.

#### ***Damages***

49. As a result of Cineplex's breaches of sections 52 and/or 54 of the *Competition Act*, the Plaintiff and Class Members suffered loss and/or damage and are entitled to damages in an amount equal to the difference between the Second Price and the First Price, plus taxes paid on the difference, paid by them during the Class Period.

#### ***Service on the Defendants***

50. The Plaintiff and Class Members have the right to serve this Notice of Civil Claim on Cineplex pursuant to section 10 of the *Court Jurisdiction And Proceedings Transfer*

Act, SBC 2003, c 28 (the “**CJPTA**”) because there is a real and substantial connection between British Columbia and the facts alleged in this proceeding pursuant to subsections 10(e)(i) and/or (h) of the *CJPTA* as this action concerns:

- a) contractual obligations that to a substantial extent were to be performed in British Columbia (section 10(e)(i) of the *CJPTA*); and/or
- b) a business carried on in British Columbia (section 10(h) of the *CJPTA*).

Plaintiff’s address for service:

Slater Vecchio LLP  
1800 - 777 Dunsmuir Street  
Vancouver, BC V7Y 1K4

Fax number for service: 604.682.5197

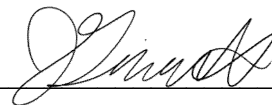
Email address for service: [service@slatervecchio.com](mailto:service@slatervecchio.com)

Place of trial: Vancouver, BC

The address of the registry is:

800 Smithe Street  
Vancouver, BC  
V6Z 2E1

Date: January 22, 2024



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Signature of lawyer for plaintiff

Anthony A Vecchio KC  
Sam Jaworski  
Justin Giovannetti  
Slater Vecchio LLP

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION  
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

The plaintiff claims the right to serve this pleading on the defendants CINEPLEX INC. and CINEPLEX ENTERTAINMENT ~~LP~~LIMITED PARTNERSHIP. British Columbia on the ground that the *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28 (the "**CJPTA**") applies because there is a real and substantial connection between British Columbia and the facts on which this proceeding is based. The Plaintiff and Class Members rely on the following grounds, in that this action concerns:

- c) contractual obligations that to a substantial extent were to be performed in British Columbia (section 10(e)(i) of the *CJPTA*); and/or
- d) a business carried on in British Columbia (section 10(h) of the *CJPTA*).



## Appendix

*[The following information is provided for data collection purposes only and is of no legal effect.]*

### **Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

This is a proposed class proceeding regarding Cineplex's pricing practices.

### **Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

*[Check one box below for the case type that best describes this case.]*

A personal injury arising out of:

a motor vehicle accident

medical malpractice

another cause

A dispute concerning:

contaminated sites

construction defects

real property (real estate)

personal property

the provision of goods or services or other general commercial matters

investment losses

the lending of money

an employment relationship

a will or other issues concerning the probate of an estate

a matter not listed here

### **Part 3: THIS CLAIM INVOLVES:**

*[Check all boxes below that apply to this case]*

a class action

maritime law

aboriginal law

constitutional law

conflict of laws

none of the above

do not know

**Part 4:**

*Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28

*Limitation Act*, SBC 2012, c 13

*Court Order Interest Act*, RSBC 1996, c 79

*Privacy Act*, RSBC 1996, C 373