

AMENDED THIS
MODIFIÉ CE

Feb. 20/24

PURSUANT TO
CONFORMÉMENT À

☒ RULE/LA RÈGLE 26.02 (A)

☐ THE ORDER OF
L'ORDONNANCE DU

DATED / FAIT LE

Court File No.: CV-17-586063-00CP

ONTARIO

REGISTRAR
SUPERIOR COURT OF JUSTICE

GREFFIER
COUR SUPÉRIEURE DE JUSTICE

SUPERIOR COURT OF JUSTICE

BETWEEN

MARCY DAVID, BRENDA BROOKS and ANDREW BALODIS

Plaintiffs

and

LOBLAW COMPANIES LIMITED, GEORGE WESTON LIMITED,
WESTON FOODS (CANADA) INC., WESTON BAKERIES LIMITED,
CANADA BREAD COMPANY, LIMITED, GRUPO BIMBO, S.A.B. DE C.V.,
MAPLE LEAF FOODS INC., EMPIRE COMPANY LIMITED,
SOBEYS INC., METRO INC., WAL-MART CANADA CORP.
WAL-MART STORES, INC. and GIANT TIGER STORES LIMITED

Defendants

Proceeding under the *Class Proceedings Act, 1992*

FIFTH FRESH AS AMENDED STATEMENT OF CLAIM

(Notice of Action issued November 7, 2017)

DEFINED TERMS

1. The capitalised terms used in this claim have the meanings indicated below:
 - (a) “**CA**” means the *Competition Act*, R.S.C. 1985, c. C-34, as amended;
 - (b) “**Canada Bread**” means Canada Bread Company, Limited;
 - (c) “**Canada Bread Defendants**” means Canada Bread Company, Limited, Maple Leaf Foods Inc., and Grupo Bimbo, S.A.B. de C.V.;
 - (d) “**CJA**” means the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (e) “**Class**” means all persons or entities residing in Canada, other than **Excluded Persons**, who purchased **Packaged Bread** during the **Class Period**

produced or sold by the Defendants or their affiliates, and who reside in Canada as of the date of the certification order;

- (f) “**Class Period**” means from and after 1 November 2001 to the present;
- (g) “**Conspiracy**” means:
 - (i) before 12 March 2010, the conspiracy, combination, agreement or arrangement between the Defendants or their affiliates to prevent, limit or lessen unduly the manufacture or production of **Packaged Bread**; to enhance unreasonably the price thereof; to prevent or lessen unduly competition in the production, manufacture, purchase, sale, or supply of **Packaged Bread**; or otherwise to restrain or injure competition unduly between or among the Defendants;
 - (ii) on and after 12 March 2010, the conspiracy agreement or arrangement between or among the Defendants or their affiliates or some of them to fix, maintain, increase or control the price of **Packaged Bread**; to allocate sales, territories, customers or markets for the production or supply of **Packaged Bread**; to fix, maintain, control, prevent, lessen or eliminate the production or supply of **Packaged Bread**; and
 - (iii) at any time during the **Class Period** the conspiracy, agreement or arrangement among the Defendants or their affiliates to act in contravention of s. 45(1) of the *CA* with:
 - 1. the predominate purpose of causing harm to the **Class**; or
 - 2. the actual or constructive intent and with the natural result of causing harm to the **Class**.
- (h) “**CPA**” means the *Class Proceedings Act, 1992*, S.O. 1992, c. 6;
- (i) “**Empire**” means Empire Company Limited;
- (j) “**Excluded Persons**” means residents of Quebec and the Defendants and their subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns;
- (k) “**Fresh Bread**” means freshly baked bread products;
- (l) “**George Weston**” means George Weston Limited;
- (m) “**Giant Tiger**” means Giant Tiger Stores Limited;
- (n) “**Grupo Bimbo**” means Grupo Bimbo, S.A.B. de C.V.;

- (o) “**Loblaw**” means Loblaw Companies Limited;
- (p) “**Loblaw Defendants**” means Loblaw Companies Limited and George Weston Limited;
- (q) “**Maple Leaf**” means Maple Leaf Foods Inc.;
- (r) “**Metro**” means Metro Inc.;
- (s) “**Packaged Bread**” means packaged bread products and bread alternatives (including but not limited to bagged breads, buns, rolls, bagels, naan bread, English muffins, wraps, pita and tortillas);
- (t) “**Sobeys**” means Sobeys Inc.;
- (u) “**Sobeys Defendants**” means Sobeys Inc. and Empire Company Limited;
- (v) “**Wal-Mart Canada**” means Wal-Mart Canada Corp.;
- (w) “**Wal-Mart USA**” means Wal-Mart Stores Inc., now known as Walmart Inc.;
- (x) “**Wal-Mart Defendants**” means Wal-Mart Canada Corp. and Wal-Mart Stores Inc.;
- (y) “**Weston Bakeries**” means Weston Bakeries Limited;
- (z) “**Weston Foods**” means Weston Foods (Canada) Inc.; and
- (aa) “**Weston Bakeries Defendants**” means Weston Bakeries Limited, George Weston Limited, and Weston Foods (Canada) Inc.

RELIEF CLAIMED

2. The Plaintiffs claim on their own behalf and on behalf of the other Class members:

- (a) An order pursuant to the *CPA* certifying this action as a Class Proceeding;
- (b) An order appointing them as the Representative Plaintiffs of the Class;
- (c) A declaration that in the part of the Class Period before 12 March 2010 the Defendants conspired, combined, agreed or arranged between or among themselves:

- (i) to prevent, limit or lessen unduly the manufacture or production of Packaged Bread;
 - (ii) to enhance unreasonably the price of Packaged Bread;
 - (iii) to prevent or lessen unduly competition in the production, manufacture, purchase, sale, or supply of Packaged Bread; and
 - (iv) otherwise to restrain or injure unduly competition between them,

in breach of s. 45(1) of the *CA* in force before this date.
- (d) A declaration that in the part of the Class Period from and after 12 March 2010 the Defendants conspired, agreed or arranged between or among themselves:
 - (i) to fix, maintain, increase or control the price for Packaged Bread sold in Canada;
 - (ii) to allocate sales, territories, customers or markets for the production or supply of Packaged Bread sold in Canada; and
 - (iii) to fix, maintain, control, prevent, lessen or eliminate the production or supply of Packaged Bread sold in Canada,

in breach of s. 45(1) of the *CA* in force from that date;
- (e) A declaration that during the Class Period the Defendants together conspired unlawfully to breach s. 45(1) of the *CA*;
- (f) A declaration that the Defendants caused the Plaintiffs and the other Class members to suffer loss and damage by their participation in the conspiracy to breach s. 45(1) of the *CA*, by their breach of s. 45(1) of the *CA*, and by their associated conduct as described herein;
- (g) A declaration that the Defendants hold the profits they or any of them or their nominees received for Packaged Bread in breach of s. 45(1) of the *CA* and as part of the Conspiracy;
- (h) A declaration that the Defendants have been unjustly enriched by the profits or any benefits they obtained during the Class Period from the sale of Packaged Bread in breach of s. 45(1) of the *CA* and as part of the Conspiracy;
- (i) A declaration that the controlling affiliates of the Defendants are liable under the doctrine of knowing receipt to account to the Plaintiffs and the other Class members for the monetary benefits they obtained during the Class Period from their participation in the conduct described herein;

- (j) A declaration that the controlling affiliates of the Defendants are liable under the doctrine of knowing assistance to account to the Plaintiffs and the other Class members for the monetary benefits they obtained during the Class Period from their participation in the conduct described herein;
- (k) Damages in the aggregate in the sum of \$10 billion or such additional or other sum as this court finds appropriate at the trial of the common issues;
- (l) In the further alternative, an order requiring the Defendants to account to the Plaintiffs and the other Class members for the monetary benefits they obtained during the Class Period from their participation in the conduct described herein and an order requiring the Defendants to pay to or to disgorge to the Plaintiffs and the other Class members these benefits;
- (m) An order requiring the preservation of all records of meetings and communications during the Class Period relating to the Conspiracy;
- (n) Punitive damages in the amount of \$100 million or such other sum as this Court finds appropriate at the trial of the common issues;
- (o) Pre-judgment interest, compounded, in an amount equal to the internal rate of return that the Defendants earned on capital or, alternatively, pursuant to s. 128 of the *CJA*;
- (p) Post-judgment interest pursuant to s. 129 of the *CJA*;
- (q) An order directing a reference or giving such other directions as may be necessary to determine issues not determined at the trial of the common issues;
- (r) Costs of this action on a substantial indemnity basis plus applicable taxes, plus the costs of distribution of an award under ss. 24 or 25 of the *CPA*, including the costs of notice associated with distribution and the fees payable to a person administering the distribution pursuant to s. 26 of the *CPA*; and
- (s) Such further and other relief as seems just to this Honourable Court.

NATURE OF THE ACTION

3. Since about November 2001 the Defendants have conspired, agreed or arranged amongst themselves to set the wholesale and retail price of Packaged Bread sold in Canada by controlling output, price and other aspects of the manufacture, production, or supply of

Packaged Bread. Their conduct caused and is causing loss and damage to individuals in Canada who purchased Packaged Bread, including the Class.

4. The Defendants' conspiracy, agreement and arrangement were conducted in secret. The details of the Defendants' conspiracy, agreement and arrangement, including the times and places they met in furtherance of their illegal actions are known to the Defendants.

5. The direct and foreseeable result of their illegal actions was – and is – that the Plaintiffs and the other Class members would and will suffer loss and damage. The intent and natural outcome of their illegal actions was – and is – to injure the Plaintiffs and the other Class members and/or to enrich the Defendants.

6. On 19 December 2017 Loblaw, Weston Foods and George Weston publicly admitted to their involvement in the Conspiracy.

THE PARTIES

7. The Plaintiff, Marcy David, is a resident of Windsor, Ontario. Since 2001, she has purchased Packaged Bread and Fresh Bread produced or sold by the Defendants and their affiliates, and by those other than the Defendants or their affiliates.

8. The Plaintiff, Brenda Brooks, is a resident of Latchford, Ontario. From 1988 to 2013, Ms. Brooks operated "Brooksy's Downtown Variety" in Cobalt, Ontario. She purchased significant amounts of Packaged Bread produced or sold by the Defendants and their affiliates, and by those other than the Defendants or their affiliates, at wholesale prices during the Class Period.

9. The Plaintiff, Andrew Balodis, is a resident of Toronto, Ontario. Since 2003, he has purchased Packaged Bread and Fresh Bread produced or sold by the Defendants and their affiliates, and by those other than the Defendants or their affiliates.

Canada Bread and Maple Leaf

10. Canada Bread is an Ontario corporation with its head office in Toronto, Ontario. It is a producer of fresh and frozen baked products sold under the brands Dempster's, Villagio, Vachon, Stonemill and others.

11. Canada Bread was a subsidiary of Maple Leaf from the beginning of the Class Period until May 2014 when it was acquired by Grupo Bimbo. Canada Bread is currently a subsidiary of Grupo Bimbo.

12. Maple Leaf is a publicly traded Canadian corporation with its head office in Mississauga, Ontario.

13. At all material times, Maple Leaf and Canada Bread were public companies the shares of which traded on the Toronto Stock Exchange. During that period, Maple Leaf controlled Canada Bread through its ownership of between 88% and 90% of Canada Bread's common shares (the remaining shares were held by other shareholders). Of Canada Bread's seven to nine directors, during the period of this claim, a majority were senior officers of Maple Leaf. At the operating level, most of the senior officers of Canada Bread also held positions as senior officers of Maple Leaf. In particular, Canada Bread's then Chief Executive Officer, who participated directly in the Conspiracy, served concurrently as a senior officer of Maple Leaf. In particular, at the beginning of the Class Period, Maple Leaf

owned 68 percent of the shares of Canada Bread. Maple Leaf gradually increased its shareholdings in Canada Bread and, by May 2014, it owned 90 percent of the shares of Canada Bread. Maple Leaf described Canada Bread as its Bakery Products Group and treated it as an operational group within Maple Leaf.

14. At the time of the Conspiracy, Canada Bread did not have an independent legal and compliance department responsible for its commercial and market practices; Canada Bread's legal and compliance functions had been directed by senior management of Maple Leaf.

15. At all material times, Canada Bread and Maple Leaf together participated in the Conspiracy and all of Canada Bread's acts in furtherance of the Conspiracy were made or taken under the direction or control of Maple Leaf and Maple Leaf was aware of and participated in the Conspiracy.

16. The revenue from the Conspiracy was used in part to fund dividends paid to Maple Leaf and other shareholders during the period of the Conspiracy.

17. Until May 2014, Maple Leaf exercised complete domination and control over the affairs and activities of Canada Bread. Canada Bread did not function independently and was, instead, controlled by Maple Leaf for an improper purpose, namely participation by Maple Leaf in the Conspiracy.

18. Canada Bread was used by Maple Leaf as a shield for its improper involvement in the Conspiracy.

19. Furthermore, Maple Leaf directed Canada Bread's involvement in the Conspiracy in an effort to increase the value of Canada Bread leading up to the sale process Maple Leaf commenced in October 2013. The purchase price was calculated with reference to the revenues generated by Canada Bread from the Conspiracy. The purchase price, which was artificially inflated by reason of these revenues, was paid to or otherwise accrued to Maple Leaf's benefit.

20. Alternatively, Canada Bread acted as the authorised agent of its corporate controller, Maple Leaf, in all respects and, in particular, in respect of its participation in the Conspiracy.

21. Grupo Bimbo is a publicly traded Mexican corporation with its head office in Mexico City, Mexico. It is, and has been, the parent company of Canada Bread since it acquired Canada Bread in May 2014.

22. Since May 2014, Canada Bread participated in the Conspiracy under the direction of Grupo Bimbo and Grupo Bimbo was aware of and participated in the Conspiracy.

23. From the time Grupo Bimbo acquired Canada Bread, Grupo Bimbo exercised complete domination and control over the affairs and activities of Canada Bread. Canada Bread did not function independently and was, instead, controlled by Grupo Bimbo for an improper purpose, namely Grupo Bimbo's participation in the Conspiracy.

24. Canada Bread was used by Grupo Bimbo as a shield for its improper involvement in the Conspiracy.

25. Alternatively, Canada Bread acted as the authorised agent of its corporate controller, Grupo Bimbo, in all respects and, in particular in respect of its participation in the Conspiracy.

Loblaw

26. George Weston is a publicly traded Canadian corporation with its head office in Toronto, Ontario. It is the parent company of Loblaw, Weston Foods, and Weston Bakeries.

27. Loblaw is a publicly traded Canadian corporation with its head office in Toronto, Ontario. It is a subsidiary of George Weston. Loblaw is a food retailer with over 1,000 grocery stores in Canada across its banners including: Loblaws, Zehrs, Fortinos, Real Canadian Superstore, No Frills and others.

28. Weston Foods is an Ontario corporation with its head office in Toronto, Ontario. It is a subsidiary of George Weston. Weston Foods is a producer of fresh and frozen baked products sold under the brands Weston, Wonder, D'Italiano, Country Harvest and others.

29. Weston Bakeries is a Canadian corporation with its head office in Toronto, Ontario. It is a subsidiary of George Weston and is described as a business unit of Weston Foods. Weston Bakeries is a producer and supplier of Packaged Bread.

30. At all material times, Loblaw, Weston Foods, and Weston Bakeries participated in the Conspiracy under the direction of George Weston and George Weston was aware of and participated in the Conspiracy.

31. George Weston exercised complete domination and control over the affairs and activities of Loblaw, Weston Foods, and Weston Bakeries. Loblaw, Weston Foods, and Weston Bakeries did not function independently and were, instead, controlled by George Weston for an improper purpose, including participation by George Weston in the Conspiracy.

32. Loblaw, Weston Foods, and Weston Bakeries were used by George Weston as a shield for its improper involvement in the Conspiracy.

33. Alternatively, Loblaw, Weston Foods, and Weston Bakeries acted as the authorised agents of their corporate controller, George Weston, in all respects and, in particular, in respect of its participation in the Conspiracy.

Sobeys

34. Empire is a publicly traded Nova Scotia corporation with its head office in Stellarton, Nova Scotia. It is the parent company of Sobeys.

35. Sobeys is a Nova Scotia corporation with its head office in Stellarton, Nova Scotia. It is a subsidiary of Empire. Sobeys is a food retailer with over 1,500 grocery stores in Canada across its banners including: Sobeys, IGA, Safeway, Foodland, FreshCo and others.

36. At all material times, Sobeys participated in the Conspiracy under the direction of Empire and Empire was aware of and participated in the Conspiracy.

37. Empire exercised complete domination and control over the affairs and activities of Sobeys. Sobeys did not function independently and was, instead, controlled by Empire for an improper purpose, including participation by Empire in the Conspiracy.

38. Sobeys was used by Empire as a shield for its improper involvement in the Conspiracy.

39. Alternatively, Sobeys acted as the authorised agent of its corporate controller, Empire, in all respects and, in particular, in respect of its participation in the Conspiracy.

Metro

40. Metro is a publicly traded Quebec corporation with its head office in Montreal, Quebec. Metro is a food retailer with over 700 grocery stores in Canada across its banners including: Metro, Food Basics, Super C, Marché and others.

Wal-Mart

41. Wal-Mart USA is a publicly traded Delaware corporation with its head office in Little Rock, Arkansas. It is the parent company of Wal-Mart Canada.

42. Wal-Mart Canada is a Nova Scotia corporation with its head office in Mississauga, Ontario. It is a subsidiary of Wal-Mart USA. Wal-Mart Canada is a retailer with over 400 department stores in Canada.

43. At all material times Wal-Mart Canada participated in the Conspiracy under the direction of Wal-Mart USA and Wal-Mart USA was aware of and participated in the Conspiracy.

44. Wal-Mart USA exercised complete domination and control over the affairs and activities of Wal-Mart Canada. Wal-Mart Canada did not function independently and was, instead, controlled by Wal-Mart USA for an improper purpose, namely participation by Wal-Mart USA in the Conspiracy.

45. Wal-Mart Canada was used by Wal-Mart USA as a shield for its improper involvement in the Conspiracy.

46. Alternatively, Wal-Mart Canada acted as the authorised agent of its corporate controller, Wal-Mart USA, in all respects and, in particular, in respect of its participation in the Conspiracy.

Giant Tiger

47. Giant Tiger is an Ontario corporation with its head office in Ottawa, Ontario. Giant Tiger has over 200 stores in Canada and is a discount retailer of Packaged Bread.

THE UNNAMED CO-CONSPIRATORS

48. Various entities and persons who are unknown to the Plaintiffs and not named as parties to this proceeding have participated in the Conspiracy and have engaged in acts with the Defendants in furtherance of the Conspiracy.

49. The Defendants named herein are jointly and severally liable for the actions of, and damages allocable to, their co-conspirators, including the other named Defendants and any unnamed co-conspirator.

PACKAGED BREAD IN CANADA

50. Packaged Bread products are a food staple in Canada. These products are purchased regularly by consumers across Canada.

51. The Defendants in this action along with their affiliates are the largest producers and retailers of Packaged Bread in Canada.

52. Loblaw together with its affiliates, Sobeys together with its affiliates, Metro together with its affiliates, Giant Tiger together with its affiliates and Wal-Mart Canada together with its affiliates, are competitors of one another.

53. Weston Foods together with its affiliates and Canada Bread together with its affiliates are competitors of one another. Together they own or control over 80% of the production market in Canada for Packaged Bread.

54. During the period of the Conspiracy the Defendants possessed a dominant market share in Canada for the market of the manufacture, production and sale of Packaged Bread. Collectively, the Defendants were able to exercise market power in this market.

55. Since or about November 2001, the Defendants have, relying on their market power, conspired to and did artificially increase the wholesale and retail price of Packaged Bread. Particulars of the dates of, participants, agendas, presentations, discussions at, and

outcomes of any meetings or discussions related to the Conspiracy are known to the Defendants.

56. As a result of the Defendants' conduct, during the Class Period, the Plaintiffs and the Class members have paid supra-competitive prices for Packaged Bread.

57. The Conspiracy was conducted and maintained in secrecy from its inception and was not revealed publicly until the period from October to December 2017.

THE COMMISSIONER OF COMPETITION'S INVESTIGATION

58. In or about March 2015 George Weston and/or Loblaw made an application to the Commissioner of Competition for immunity based on their participation in the Conspiracy.

59. Shortly thereafter, the Commissioner commenced his investigation into the Conspiracy.

60. In or about October 2017 the Commissioner executed search warrants at premises owned and controlled by George Weston, Loblaw, Weston Foods, Canada Bread, Wal-Mart Canada, Metro, Sobeys and Giant Tiger. A search warrant was also executed at Overwaitea Food Group, a fact-witness who is not currently the subject of the Commissioner's investigation.

61. On or about 18 December 2017 the Ontario Superior Court of Justice unsealed certain of the warrants granted to, and the related Information to Obtain warrants sworn by, the Commissioner as authorized by the *CA*. The warrants and Information to Obtain

warrants revealed the focus of the Commissioner's investigation: the Commissioner is investigating the Conspiracy.

62. On 19 December 2017 George Weston and Loblaw issued a press release admitting to their involvement, along with Weston Foods, in the Conspiracy during the period commencing in or about November 2001 and ending in or about March 2015. George Weston and Loblaw also admitted they were the immunity applicant to the Commissioner.

63. Also, on 19 December 2017, on their analysts' call, George Weston and Loblaw announced they had been granted immunity and would not face any criminal charges or fines.

64. On 31 January 2018 the Ontario Superior Court of Justice unsealed further documents including applications by Sobeys and Metro for disclosure of the identity of witnesses and further Information to Obtain warrants sworn by the Commissioner.

65. The Information to Obtain warrants reveal, in greater depth, the nature of the Conspiracy.

66. The Defendants reached an industry-wide, conspiratorial agreement to increase the price of Packaged Bread, including both the wholesale price and the retail price of Packaged Bread.

67. The Defendants' Conspiracy to increase the price of Packaged Bread constituted a horizontal price fixing Conspiracy between the Weston Bakeries Defendants and the Canada Bread Defendants (together, the **Suppliers**) to fix the price of Packaged Bread, and a

horizontal price fixing Conspiracy between the Loblaw Defendants, the Sobeys Defendants, Metro, the Wal-Mart Defendants, and Giant Tiger (together, the **Retailers**) to fix the price of Packaged Bread.

68. Beginning in about November 2001 and continuing until today, the Suppliers agreed and coordinated with each other on at least fifteen occasions to increase the price of Packaged Bread; the Retailers agreed and coordinated with each other to set the price of Packaged Bread; and the Suppliers and Retailers agreed and coordinated with one another to ensure adherence within the Conspiracy. The aforementioned agreements and co-ordination were achieved as a result of direct communication between senior officers and executives in the Defendants' organisations.

69. The Competition Bureau's Information to Obtain also indicates that it believed Michael McCain, Maple Leaf Foods' former Chief Executive Officer, was aware of arrangements to fix prices. Mr. McCain and other senior officers for Maple Leaf, who were also senior officers for Canada Bread, used their access to the Retailers to speak about bread pricing. By way of example, Mr. McCain discussed the price increases of bread with the president of Metro.

70. Maple Leaf was directly involved in the Conspiracy, through its own employees and by directing Canada Bread.

71. Maple Leaf intended to and did increase the profitability of bread through the price fixing arrangement, because it received that profit both through dividends and through increasing the value of Canada Bread.

72. Maple Leaf, through Canada Bread, was the pricing leader. However, to provide certainty to the Retailers, the Suppliers had to agree and to announce wholesale price increases in tandem. In or about February 2002 the Suppliers announced their first agreed and coordinated increase in the wholesale price of Packaged Bread: \$0.07 per unit (e.g. per “loaf of bread”) effective April 2002. The majority of the increases followed the 7/10 Convention employed by the Defendants: a seven-cent increase at wholesale corresponded with a ten cent increase at retail. A list of the alleged increases announced by Suppliers follows:

	Announced	Effective	Canada Bread	Weston
1	Feb 2002	Apr 2002	\$0.07	\$0.07
2	Sep 2002	Nov 2002	\$0.07	\$0.07
3	Jan 2004	Mar 2004	\$0.08	\$0.08
4	Feb 2005	Apr 2005	Unknown	Unknown
5	Nov 2005	Feb 2006	Unknown	Unknown
6	Jul/Aug 2006	Oct 2006	\$0.07 branded \$0.06 private label	\$0.07
7	Jul 2007	Oct 2007	(\$0.08)	(\$0.08)
8	Sep 2007	Oct 2007	\$0.16*	\$0.16*
9	Mar/Apr 2010	Jun 2010	\$0.07	\$0.07
10	Dec 2010	Feb 2011	\$0.07	\$0.07
11	Feb 2011	Mar 2011	\$0.14	\$0.14
12	Feb 2012	Apr 2012	(\$0.07)**	(\$0.07)**
13	Oct 2012	Jan 2013	\$0.07	\$0.07
14	Jan 2015	Apr 2015	\$0.07	\$0.07
15	Nov/Dec 2015	Feb 2016	\$0.07	\$0.07

() Increase was not implemented

*Revised increase #7

** rescinded by Canada Bread because Weston did not apply increase to plain white bread

73. As a result of the eleven wholesale price increases that were known and implemented (of the fifteen total announcements: two price increases were unknown, one was revised, and one was rescinded) the wholesale price of Packaged Bread was increased

by \$0.94 per unit corresponding, approximately, with an increase in the retail price of Packaged Bread by \$1.33 per unit.

74. Discussion amongst the Suppliers and Retailers about impending increases in the wholesale price of Packaged Bread would commence at least 3-4 months in advance of their agreement and its announcement. The Retailers would utilise the Suppliers as conduits to communicate precise future retail pricing information and the Retailers would finally agree and accept the wholesale price increases on the condition that the other Retailers would do the same.

75. The Conspiracy even had its own enforcement mechanism. The Suppliers were responsible for establishing and enforcing retail price floors and coordinating retail price points amongst the Retailers and the Retailers expected that the Suppliers would address any discrepancies in retail prices across the Conspiracy. When a Retailer would complain to the Supplier about another Retailer's price, the Supplier would address the issue with the offending Retailer and report back to the originating Retailer. This ensured the retail price of Packaged Bread was maintained across the Conspiracy.

FURTHER PARTICULARS OF MAPLE LEAF'S PARTICIPATION IN THE CONSPIRACY

76. Discovery in the action will reveal further particulars of the Conspiracy.

77. During the Conspiracy, Willard Gordon Galen Weston (**Galen Weston Sr.**) was succeeded by his son, Willard Galen Garfield Weston (**Galen Weston Jr.**), as Chairman of the Board of Loblaw in October 2006 and of George Weston in September 2016.

78. At all times during the Class Period, Michael McCain was President and Chief Executive Officer of Maple Leaf. Due to his position of authority at Maple Leaf, at all times during the Class Period, Michael McCain was responsible for directing the Conspiracy on behalf of Maple Leaf. At all times during the Class Period prior to Maple Leaf's sale of Canada Bread to Grupo Bimbo, Michael McCain was also a director at Canada Bread. Following Wallace McCain's death in May 2011, control of Maple Leaf and its subsidiary, Canada Bread, passed to Michael McCain.

79. During the Class Period, Galen Weston Jr. and Michael McCain illegally met in person to reaffirm and further the Conspiracy. Other meetings also occurred between Maple Leaf executives and executives from other Defendants to further the Conspiracy.

80. In or about January 2007, Michael McCain prepared to and likely did meet with Loblaw to discuss the profits Loblaw had obtained during the first five years of the Conspiracy. In preparation for that meeting, on or about 11 January 2007, Michael McCain sent an email and attached a draft presentation slide, bearing Canada Bread's logo, for Loblaw to Richard Lan, the Chief Operating Officer of Maple Leaf and the Chief Executive Officer of Canada Bread. In the email, Michael McCain discussed the presentation for Loblaw which, among other things, demonstrated that by increasing the retail margin on Packaged Bread from \$0.24 in 2001 to \$0.55 in 2006 (over 70% increase), the Conspiracy had already earned Loblaw an extra \$103 million annually in profit. On or about 14 January 2007, Richard Lan forwarded the email and attachment to Barry McLean, President of the Packaged Bread division of Canada Bread, requesting Barry McLean's thoughts.

81. In or about March 2007, Galen Weston Jr. and Michael McCain met and discussed Packaged Bread pricing and the general retail landscape. On or about 22 March 2007, Michael McCain sent an email recounting the meeting with Galen Weston Jr. to Maple Leaf and Canada Bread executives: Réal Ménard (Executive Vice President of Canada Bread), Doug Gingrich (Senior Vice President of Customer Business Development at Maple Leaf), Michele S. Hardinge (a senior executive at Canada Bread), Rich Young (President, Consumer Foods at Maple Leaf), Barry McLean and Richard Lan. On or about 22 March 2007, Réal Ménard forwarded the email to Peter Zabarylo (Vice President, National Retail Accounts at Canada Bread) with the caption “Info only CONFIDENTIAL”.

82. In or about the week of 22 March 2007, Michael McCain met with Paul del Duca, Senior Vice President at Metro, to discuss, among other things, past and future Packaged Bread price increases. On or about 22 March 2007, an email by Michael McCain, which recounted a wide ranging conversation at the meeting with Paul del Duca, including a vigorous discussion of the strategy of managing category profit in the retail environment, was sent to Maple Leaf and Canada Bread executives: Réal Ménard, Doug Gingrich, Michele S. Hardinge, Rich Young, Barry McLean and Richard Lan. On or about 22 March 2007, Réal Ménard forwarded the email to Peter Zabarylo and Rory Lesperance (Vice President, National Sales, and General Manager of Ontario Fresh Bakery at Canada Bread) with the caption “Info only . . . keep confidential”.

83. In or about the week of 19 February 2008, Michael McCain met with Mark Foote, President at Loblaw, to discuss, among other things, Packaged Bread. On or about 19 February 2008, Peter Zabarylo sent an email attaching a draft brief produced for this meeting

to Maple Leaf and Canada Bread executives: Wayne Edgecombe, Alex Mavroudis (Key Account Manager for Costco, Loblaws, Shoppers Drug Mart & Giant Tiger at Maple Leaf), Sylvain Tousignant, Danny Noel (Key Accounts Manager for Loblaws and Walmart Quebec at Canada Bread), Dana MacQueen and Randy Baltzer (Key Account Manager at Canada Bread). The draft brief, on Maple Leaf letterhead, referenced the sell-in of a previous market-wide Packaged Bread price “increase targeted for 14 October 2007 (approx. increase +4%)”.

84. On or about 26 January 2010, Michael McCain met with Galen Weston Jr. to discuss Packaged Bread prices. As part of the preparations, on or about 13 January 2010, Sean Drygas (Senior Director, Business Analysis, Office of the CEO at Maple Leaf), sent an email attaching a Loblaw customer brief from Michael McCain’s previous meeting with Allan Leighton, President and Deputy Chairman at Loblaw, to Maple Leaf and Canada Bread executives: Peter Zabarylo, Marie-Eve Royer (Director, Canada Retail Sales, Olivier Foods at Maple Leaf), John Tobin, Dan Curtin, Randy Sopinka, Marion Thomas, Viet Ha Pham, and Doug Gingrich. On or about 13 January 2010, Marie-Eve Royer forwarded the email and draft brief to Chantal Cooke (National Account Manager, Olivieri Foods at Maple Leaf). The draft brief, on Maple Leaf letterhead, referenced among other things, the need for a mid-2010 price increase for Packaged Bread.

THE CRIMINAL CHARGES

85. On 20 June 2023, Canada Bread entered a guilty plea, supported by an agreed statement of facts, with respect to conduct contrary to s. 45 of the *Competition Act*, namely

to increase wholesale Packaged Bread prices on four occasions, resulting in two price increases, one implemented in October 2007 and the other implemented in March 2011.

86. In the guilty plea, Canada Bread admits that:

- (a) In June 2007, its then Chief Executive Officer and one or more senior Weston executive(s) discussed coordinating Canada Bread and Weston's Packaged Bread price increases, leading to an arrangement to increase the wholesale price of Packaged Bread to grocery retailers;
- (b) Following the June 2007 arrangement, its then Chief Executive Officer and one or more senior Weston executive(s) spoke again to co-ordinate an amendment to Canada Bread and Weston's announced wholesale price increases effective October 2007;
- (c) In November 2010, its then Chief Executive Officer and one or more senior Weston executive(s) discussed increasing wholesale prices for Packaged Bread;
- (d) On or around 31 January 2011, its then Chief Executive Officer and one or more senior Weston executive(s) discussed increasing wholesale prices for Packaged Bread;
- (e) Canada Bread and Weston did in fact increase the wholesale prices for Package Bread pursuant to these discussions; and
- (f) The offences involved a high degree of planning and coordination by its then Chief Executive Officer and one or more senior executives of Weston,

including communicating directly about effectuating the offences, as described above. The then Chief Executive Officer initiated the contact with one or more senior executives at Weston to arrive at the arrangements particularized above.

87. The guilty plea implicates not only Canada Bread, but also Maple Leaf, because in the guilty plea Canada Bread admits that:

- (a) A majority of Canada Bread's directors were senior officers of Maple Leaf;
- (b) The Chief Executive Officer of Canada Bread, who participated directly in the arrangements, served concurrently as a senior officer of Maple Leaf;
- (c) Maple Leaf senior officers did not disclose the Conspiracy during the process that led to the sale of Canada Bread to Grupo Bimbo despite having been asked questions about commercial practices and compliance with laws and regulations affecting the business;
- (d) Canada Bread did not have an independent legal and compliance department until 2018, and in the period until 2014, Canada Bread's legal and compliance functions had been directed by senior management of Maple Leaf; and
- (e) Maple Leaf received the benefit of the supracompetitive revenue from the fixed prices both through the payment of cash dividends as a shareholder, and in receiving a sale price of \$1.83 billion for Canada Bread from Grupo Bimbo.

DISCOVERABILITY AND FRAUDULENT CONCEALMENT BY MAPLE LEAF

88. Throughout the Class Period and to this day, Maple Leaf effectively, affirmatively, and fraudulently concealed their involvement in the Conspiracy.

89. On or about 16 November 2023, Canada Bread made a voluntary disclosure of information to the Plaintiffs. Further disclosure was made on or about 14 January 2024.

90. The Plaintiffs and Class members did not discover and could not have discovered through the exercise of reasonable diligence the existence of Maple Leaf's participation in the Conspiracy before the announcement of Canada Bread's guilty plea on 20 June 2023 and Canada Bread's voluntary disclosures of information to the Plaintiffs on 16 November 2023 and 14 January 2024.

91. Maple Leaf used various means to conceal its participation in the Conspiracy. They made repeated public statements in which they falsely informed the Plaintiffs and Class Members that they did not participate in the Conspiracy. For example, in June 2023, Maple Leaf incorrectly stated to the Canadian Press that:

We have acted ethically and lawfully at all times. We are not aware of and have never engaged in inappropriate or anti-competitive activity, and we will defend ourselves vigorously against any allegation to the contrary.

And on or about 29 August 2023, Michael McCain issued a public statement on Maple Leaf's website incorrectly stating, among other things:

It was not a communication with any competitor, it did not describe a communication with a competitor, and it was not about price fixing or any other kind of unlawful activity in any category.

...

As for Canada Bread, what I can say with confidence is that the allegations simply do not line up with what I observed while we were a shareholder, nor do they line up with what

we found in our records. We continue to believe that the pricing practices of Canada Bread were responsible, consistent with industry practice, and above all, lawful.

92. The Plaintiffs and the Class members relied on Maple Leaf's misrepresentations and fraudulent concealment of the Conspiracy alleged herein, leading to losses for which Maple Leaf is responsible.

SECTION 45(1) OF THE CA

93. The Defendants are legally independent of one another and compete to sell Packaged Bread to persons in Canada.

94. Based on the facts and allegations particularised herein, in the part of the Class period before 12 March 2010, the Defendants conspired, combined, agreed or arranged, whether expressly, tacitly or by signalling, to prevent, limit or lessen unduly the manufacture or production of Packaged Bread; to enhance unreasonably the price thereof; to prevent or lessen unduly competition in the production, manufacture, purchase, sale, or supply of Packaged Bread; or otherwise to restrain or injure competition unduly between or among the Defendants.

95. Based on the facts and allegations particularised herein, in the part of the Class period on and after 12 March 2010, the Defendants conspired, agreed or arranged between or among them or some of them, whether expressly, tacitly or by signalling, to fix, maintain, increase or control the price of Packaged Bread; to allocate sales, territories, customers or markets for the production or supply of Packaged Bread; to fix, maintain, control, prevent, lessen or eliminate the production or supply of Packaged Bread.

96. Based on the facts and allegations particularised herein, at all times during the Class Period the Defendants conspired, agreed or arranged, whether expressly, tacitly or by signalling, to act in contravention of s. 45(1) of the *CA* with the predominate purpose of causing harm to the Class and/or the actual or constructive intent and with the natural result of causing harm to the Class.

97. Based on the facts and allegations particularised herein, in the alternative, at all times during the Class Period prior to its sale of Canada Bread to Grupo Bimbo, Maple Leaf was a party to the Conspiracy, and acted in contravention of s. 45(1) of the *CA*, by aiding, abetting, and counselling Canada Bread, and the other Defendants, in violation of ss. 21 and 22 of the *Criminal Code*.

98. Pursuant to s. 36(1) of the *CA*, the Plaintiffs and the other Class members are entitled to recover from the Defendants, jointly and severally, an amount equal to the loss or damage suffered by the Plaintiffs and the other Class members from the Defendants' breach of s. 45(1) of the *CA*.

SECTION 46(1) OF THE *CA*

99. Based on the facts and allegations particularised herein, the Canadian affiliates of the Defendants who have foreign affiliates implemented in whole or in part in Canada, a directive, instruction, intimation of policy or other communication from persons in the Defendants' non-Canadian affiliates who are in a position to direct or influence the policies of the Canadian affiliates and which communication is for the purpose of giving effect to the Conspiracy.

100. Pursuant to s. 36(1) of the *CA*, the Plaintiffs and the other Class members are entitled to receive damages from the Defendants' Canadian affiliates equal to the loss and damage suffered by the Plaintiffs and the other Class members from the Defendants' non-Canadian affiliates' breach of s. 46(1) of the *CA*.

COMMON LAW CONSPIRACY

101. The Defendants are legally independent of one another and compete to sell Packaged Bread to persons in Canada.

102. During the Class Period, in Canada and elsewhere in locations which are unknown to the Plaintiffs but known to the Defendants, the Defendants and their co-conspirators, whether expressly, tacitly or by signalling, voluntarily entered into agreements with each other to use unlawful means, consisting in contravening s. 45(1) of the *CA* as particularised herein, causing loss and damage to the Plaintiffs and the other Class members. In the alternative, Maple Leaf aided and abetted the other Defendants' entry into such agreements in violation of ss. 21 and 22 of the *Criminal Code*, causing loss and damage to the Plaintiffs and the other Class members.

103. The Conspiracy was directed towards and the predominate purpose was to cause harm to the Plaintiffs and the other Class members.

104. Furthermore, and alternatively, the actual or constructive intent and the natural result of the Conspiracy was to cause harm to the Plaintiffs and the other Class members.

105. Each of the Defendants is jointly and severally liable for the acts and omissions of those who engaged in the Conspiracy.

106. The Defendants are liable to the Plaintiffs and the other Class members for all loss and damage they have suffered or, alternatively, to account to the Plaintiffs and the other Class members for all of the profits made by the Defendants during the Class Period from the Conspiracy derived from sales of Packaged Bread to the Plaintiffs and the other Class members.

UNJUST ENRICHMENT

107. During the Class Period, the Defendants were unjustly enriched by retaining a portion of the revenue they received from the sales of Packaged Bread to the Plaintiffs and the other Class members which is attributable to the excessive and illegal prices they charged for Packaged Bread arising from the Conspiracy.

108. Additionally, Maple Leaf was unjustly enriched by retaining dividends which included a portion of the revenue Canada Bread received from the sales of Packaged Bread to the Plaintiffs and other Class Members attributable to the excessive and illegal prices they charged for Packaged Bread arising from the Conspiracy.

109. The Defendants as part of the Conspiracy caused the Plaintiffs and the Class members to pay money for Packaged Bread for which they should have paid less than they did.

110. As a result, the Defendants were enriched by the overpayment.

111. The Plaintiffs and Class members suffered a deprivation corresponding to the Defendants' enrichment.

112. There is and can be no juristic reason to justify the Defendants' retention of the revenue they received attributable to excessive and illegal prices from sales of Packaged Bread to the Plaintiffs and the other Class members arising from the Conspiracy because they:

- (a) obtained this revenue from conduct contravening ss. 45(1) and 46(1) of the *CA* and in the case of Maple Leaf, in the alternative, ss. 21 and 22 of the *Criminal Code*; and
- (b) should not profit from their wrongful and unlawful acts and from their contravention of the *CA* and in the case of Maple Leaf, in the alternative, the *Criminal Code*.

113. The Plaintiffs and the other Class members are entitled to recover the enrichment obtained by the Defendants from their unlawful conduct and the Defendants should be required to disgorge this enrichment to them.

CONSTRUCTIVE TRUST

114. During the Class Period, the Defendants participated in the Conspiracy.

115. As a consequence of their participation in the Conspiracy, the Defendants or their nominees or their affiliates on their behalf directly or indirectly received revenue from the sales of Packaged Bread to the Plaintiffs and the other Class members. The revenue was larger than it would have been had the Defendants, their nominees or their affiliates not participated in the Conspiracy. This revenue formed part of the profits of the Defendants

and was used by the Defendants to acquire, maintain, preserve or improve their property, including their retained earnings. Accordingly, there is a causal connection between the contributions of the Plaintiffs and the other Class members to the property acquired, maintained, preserved or improved by the Defendants or their nominees or their affiliates.

116. During the Class Period, the Defendants benefited and were unjustly enriched from that part of this revenue which is attributable to the unlawful price they charged for Packaged Bread arising from the Conspiracy.

117. It is unjust and wrong for the Defendants to receive revenue from their participation in the Conspiracy.

118. To the extent that the Defendants or any of them are unable to satisfy in whole or in part a monetary judgment arising from their participation in the Conspiracy, the Plaintiffs and the other Class members are entitled to a proprietary remedy.

119. Accordingly, the Plaintiffs and the other Class members are entitled to a proprietary remedy from the Defendants.

120. For these reasons, the Defendants hold the property they acquired, maintained, preserved or improved as a result of the revenue they received from sales of Packaged Bread to the Plaintiffs and the other Class members during the Class Period on a constructive trust in favour of the Plaintiffs and the other Class members and the Defendants are required to account to the Plaintiffs and the other Class members for income received during the Class Period. This constructive trust extends to the sale proceeds received by Maple Leaf from the

sale of Canada Bread, as the sale price was increased by the revenue generated from the excessive and illegal prices charged for Packaged Bread.

121. In the circumstances of this case, given the extent of and the Defendants' participation in the Conspiracy, good conscience requires that a constructive trust be imposed on the property acquired, maintained, preserved or improved by the Defendants from revenues they received from sales of Packaged Bread to the Plaintiffs and the other Class members during the Class Period.

KNOWING RECEIPT

122. During the Class Period, the controlling affiliates of the Defendants and, in particular, the parent companies Maple Leaf, Grupo Bimbo, George Weston, Empire and Wal-Mart USA (collectively, the **Parents**), knowingly received property impressed with a trust in favour of the Plaintiffs and the other Class members.

123. During the Class Period, the Defendants participated in the Conspiracy.

124. As a consequence of their participation in the Conspiracy, the Defendants or their nominees on their behalf directly or indirectly received revenue from the sales of Packaged Bread to the Plaintiffs and the other Class members.

125. During the Class Period, the Defendants benefited from that part of this revenue which is attributable to the unlawful price they charged for Packaged Bread arising from the Conspiracy.

126. The Defendants Canada Bread, Weston Foods, Weston Bakeries, Sobeys and Wal-Mart Canada (collectively, the **Subsidiaries**), acquired, maintained, preserved or improved their property from revenues they received from sales of Packaged Bread to the Plaintiffs and the other Class members during the Class Period as a result of the Conspiracy and they hold this property on a constructive trust in favour of the Plaintiffs and the other Class members.

127. Some or all of this property was transferred by the Subsidiaries to their respective Parents in breach of that trust.

128. The Parents did not take the trust property as bona fide purchasers for value without notice.

129. In particular, Maple Leaf had direct knowledge of the Conspiracy. At least one Maple Leaf senior officer actively participated in the Conspiracy as described herein. Accordingly, Maple Leaf knew or ought to have known that Canada Bread was participating in the Conspiracy and that the funds and other property it received from or for Canada Bread was in whole or in part acquired, maintained, preserved or improved as a result of revenues Canada Bread received from the Plaintiffs and the other Class members as a result of its participation in the Conspiracy.

130. Further, Grupo Bimbo, which bought Canada Bread from Maple Leaf during the Class Period, conducted extensive due diligence prior to acquiring Canada Bread in May 2014. Accordingly, Grupo Bimbo knew or ought to have known that Canada Bread was participating in the Conspiracy and that the property it received as part of the sale transaction

was in whole or in part acquired, maintained, preserved or improved as a result of revenues Canada Bread received from the Plaintiffs and the other Class members as a result of its participation in the Conspiracy.

131. The Parents received the trust property described herein for their own use and benefit.

132. The Parents were engaged in dishonest conduct that should have put a reasonable person on notice about the source of the funds they were receiving.

133. The Subsidiaries participated in the Conspiracy under the direction of their Parents and the Parents were aware of and participated in the Conspiracy. The Parents exercised complete domination and control over the affairs and activities of their Subsidiaries and the Subsidiaries acted as authorised agents for their corporate controllers in respect of their participation in the Conspiracy.

134. Alternatively, the Parents made no inquiry as to the source of the funds they were receiving from their Subsidiaries.

KNOWING ASSISTANCE

135. The Parents knowingly assisted their Subsidiaries in furtherance of the Conspiracy.

136. In particular, at least one senior officer of Maple Leaf participated directly in the Conspiracy, at a time when Canada Bread did not have an independent legal or compliance function. Indeed, Maple Leaf directed Canada Bread's legal and compliance functions for much of the Conspiracy.

137. The Defendants acquired, maintained, preserved or improved their property from revenues they received from sales of Packaged Bread to the Plaintiffs and the other Class members during the Class Period as a result of the Conspiracy and they hold this property on a constructive trust in favour of the Plaintiffs and the other Class members.

138. The Subsidiaries perpetrated a dishonest breach of trust when, as part of the Conspiracy, they caused the Plaintiffs and the other Class members to pay more money for Packaged Bread than they should have paid; when they acquired, maintained, preserved or improved their property from revenues they received from sales of Packaged Bread to the Plaintiffs and the other Class members during the Class Period as a result of the Conspiracy; and when they transferred some or all of that property to their Parents.

139. The Defendants and, in particular, the Parents participated in and had knowledge of their Subsidiaries' dishonest breach of trust.

140. As set out above, the Subsidiaries participated in the Conspiracy under the direction of their Parents and the Parents were aware of and participated in the Conspiracy. The Parents exercised complete domination and control over the affairs and activities of their Subsidiaries and the Subsidiaries acted as authorised agents for their corporate controllers in respect of their participation in the Conspiracy.

141. The Parents accepted the property transferred to them by their Subsidiaries with knowledge of the Subsidiaries' participation in the Conspiracy and with knowledge that this property was in whole or in part the proceeds of the Subsidiaries' participation in the Conspiracy.

142. Alternatively, the Parents were wilfully blind as to the source of the property they received from their Subsidiaries and chose deliberately to have no knowledge about the source of the property that the Subsidiaries were directing to them.

THE PLAINTIFFS AND THE OTHER CLASS MEMBERS SUFFERED DAMAGES

143. The Plaintiffs and the other Class members have suffered loss and damage caused by the wrongful and unlawful conduct of the Defendants as particularised herein.

144. In the further alternative, during the Class Period the Plaintiffs and the other Class members suffered loss and damage caused by the wrongful and unlawful conduct of the Defendants which resulted in the unjust enrichment of the Defendants.

145. Lower income Canadians are particularly reliant on bread products, which on average represent a higher portion of their caloric intake than for higher income Canadians.

146. The Conspiracy has had a long lasting impact on Canadians and the prices they pay for Packaged Bread. The inflation of Packaged Bread prices caused by the Conspiracy continues to this day.

PUNITIVE DAMAGES

147. The Defendants were engaged in a protracted and extensive course of unlawful and tortious conduct during the Class Period. Their conduct was deliberate, willful, and motivated solely by economic considerations with callous disregard for the law, including ss. 45(1) and 46(1) of the *CA*.

148. This conduct renders the Defendants liable to pay punitive damages jointly and severally to the Plaintiffs and other Class members.

REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO

149. The Plaintiffs plead that this action has a real and substantial connection with Ontario because, amongst other things:

- (a) Canada Bread maintains its registered head office and has employees in the City of Toronto, Ontario;
- (b) George Weston maintains its registered head office and has employees in the City of Toronto, Ontario;
- (c) Giant Tiger maintains its registered head office and has employees in the City of Ottawa, Ontario;
- (d) Loblaw maintains its registered head office and has employees in the City of Toronto, Ontario;
- (e) Maple Leaf maintains its registered head office and has employees in the City of Mississauga, Ontario;
- (f) Wal-Mart Canada maintains its registered head office and has employees in the City of Mississauga, Ontario;
- (g) Weston Bakeries maintains its registered head office and has employees in the City of Toronto, Ontario;

- (h) Weston Foods maintains its registered head office and has employees in the City of Toronto, Ontario;
- (i) the Defendants engage in business with persons in Ontario; and
- (j) the Conspiracy was directed towards persons in Ontario.

SERVICE OUTSIDE OF ONTARIO

150. This originating process may be served without court order outside Ontario because the claim is:

- (a) in respect of a tort committed in Ontario (rule 17.02(g));
- (b) against a person carrying on business in Ontario (rule 17.02(p)).

RELEVANT LEGISLATION

151. The Plaintiffs plead and rely on the provisions of the *CJA*, the *CPA*, the *CA*, the *Criminal Code* and the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended.

PLACE OF TRIAL

152. The Plaintiffs propose that this action be tried in the City of Toronto, in the Province of Ontario.

February 20, 2024

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MARCY DAVID et al

v.

CANADA BREAD COMPANY,
LIMITED et al

Court File No. CV-17-586063-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDINGS COMMENCED AT TORONTO

FIFTH FRESH AS AMENDED
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