

Action No.

**PROPOSED CLASS PROCEEDING
FEDERAL COURT**

BETWEEN:

ARTHUR LIN

PLAINTIFF

AND:

UBER CANADA INC.

UBER TECHNOLOGIES, INC.

UBER PORTIER CANADA INC.

UBER CASTOR CANADA INC.

JUST ORDER ENTERPRISES CORP.

FAN TUAN HOLDING LTD.

FANTUAN TECHNOLOGY LTD.

DEFENDANTS

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules serve it on the plaintiff's solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the Federal Court Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date: March 17, 2023

Issued by: _____
(Registry Officer)

Address of local office: 90 Sparks St., Ottawa, ON K1A 0H9

TO:

UBER CANADA INC. ATTN: Ted Koffman McCarthy Tetrault LLP Suite 2400, 745 Thurlow Street Vancouver, BC V6E 0C5	UBER TECHNOLOGIES, INC. c/o NATIONAL REGISTERED AGENTS, INC. 1209 Orange Street Wilmington, New Castle Delaware 19801
UBER PORTIER CANADA INC. ATTN: Matthew Peters McCarthy Tetrault LLP Suite 2400, 745 Thurlow Street Vancouver, BC V6E 0C5	UBER CASTOR CANADA INC. ATTN: Matthew Peters McCarthy Tetrault LLP Suite 2400, 745 Thurlow Street Vancouver, BC V6E 0C5

AND

JUST ORDER ENTERPRISES CORP. 700 West Georgia Street, Suite 2200 P.O. Box. 10325 Vancouver, BC V7Y 1K8	FAN TUAN HOLDING LTD. 700 West Georgia Street, Suite 2200 P.O. Box. 10325 Vancouver, BC V7Y 1K8
FANTUAN TECHNOLOGY LTD. 700 West Georgia Street, Suite 2200 P.O. Box. 10325 Vancouver, BC V7Y 1K8	

A. Overview of the Claims in this Class Proceeding

1. This proposed class proceeding concerns two major food delivery service providers' practice of representing a price for their respective food delivery services that is not attainable due to additional fees charged by each set of Defendants, contrary to section 52 of the federal *Competition Act*.
2. The Plaintiff, on behalf of all Canadian consumers (excluding Quebec consumers that purchased the Uber Eats Food Delivery Service), seeks damages, investigation costs, legal costs on a full-indemnity basis and an interlocutory and/or permanent injunctive relief enjoining each set of Defendants from representing a price that is not attainable due to obligatory charges.

B. Claims of the Plaintiff and the Class Members

3. The Plaintiff claims, on his own behalf and on behalf of other Class Members:
 - a. an Order pursuant to Rules 334.16(1) and 334.17 of the *Federal Court Rules* (the "**Rules**") certifying this action as a class proceeding and providing any ancillary directions, including appointing the Plaintiff as the representative plaintiff under Rules 334.12(3), 334.16(1)(e) and 334.17(b);
 - b. a declaration that the Defendants represented a price for their respective food delivery services to the Class Members, which was not attainable due to additional fees charged by the Defendants, contrary to section 52 of the *Competition Act*, RSC 1985, c. C-34 (the "**Competition Act**");
 - c. damages, pursuant to section 36 of the *Competition Act*, for the Defendants' conduct in contravention of section 52 of the *Competition Act*;
 - d. an Order pursuant to Rule 334.28(1) and (2) for the aggregate assessment

of monetary relief and its distribution to the Plaintiff and the Class Members;

- e. costs of investigation and prosecution of this proceeding pursuant to section 36 of the *Competition Act*;
- f. an interim, interlocutory and/or permanent injunction under section 44 of the *Federal Courts Act*, RSC 1985, c. F-7 enjoining the Defendant from further violating section 52 of the *Competition Act*;
- g. pre-judgment and post-judgment interest pursuant to sections 36 and 37 of the *Federal Courts Act*, RSC 1985, c. F-7; and
- h. such further and other relief as this Honourable Court deems just.

C. The Claims against the Uber Defendants

i. Relationship between the Uber Defendants

- 4. The Defendant, UBER CANADA INC., is a company formed under the *Canadian Business Corporations Act*, with an address for service in British Columbia at c/o Ted Koffman, McCarthy Tetrault LLP, Suite 2400, 745 Thurlow Street Vancouver, BC V6E 0C5.
- 5. The Defendant, UBER TECHNOLOGIES, INC., is a body corporate formed under the laws of the state of Delaware, USA, with a registered agent in the state of Delaware at c/o NATIONAL REGISTERED AGENTS, INC., 1209 Orange Street, Wilmington, New Castle, Delaware, 19801.
- 6. The Defendant, UBER PORTIER CANADA INC., is a company formed under the *Canadian Business Corporations Act*, with an address for service in British Columbia at c/o Matthew Peters, McCarthy Tetrault LLP, Suite 2400, 745 Thurlow Street Vancouver, BC V6E 0C5.

7. The Defendant, UBER CASTOR CANADA INC., is a company formed under the *Canadian Business Corporations Act*, with an address for service in British Columbia at c/o Matthew Peters, McCarthy Tetrault LLP, Suite 2400, 745 Thurlow Street Vancouver, BC V6E 0C5.
8. UBER TECHNOLOGIES, INC. is the parent company for UBER CANADA INC., UBER PORTIER CANADA INC., and UBER CASTOR CANADA INC. (collectively “**Uber**”).
9. UBER TECHNOLOGIES, INC., UBER PORTIER CANADA INC., and UBER CASTOR CANADA INC. collectively provide, in Canada, the Uber Eats Food Delivery Service defined further below, and UBER CANADA INC. provides local marketing support and consulting services to enable those entities to provide the Uber Eats Food Delivery Service in Canada.

ii. *The Uber Defendants’ Uber Eats Food Delivery Service*

10. At all material times, Uber supplied, or offered to supply, food delivery services in Canada, primarily via various Internet platforms including websites such as <http://www.ubereats.com> and/or via mobile applications on the Apple and Android operating systems (collectively the “**Uber Eats Food Delivery Service**”), offering functionalities, including but not limited to:
 - a. An online platform for restaurants or food service providers to list their food offerings;
 - b. A service to assist the restaurants or food service providers to price their food offerings;
 - c. A service for end-users to place a customized order and obtain delivery via the online platform of food that is prepared by a local restaurant or food

service provider that uses the online platform;

- d. Enabling correspondence between local restaurants or food service providers and the end-user, and between the delivery courier and the end-user;
 - e. 24/7 support to both the local restaurant or food service provider, end-user, and/or delivery courier; and
 - f. Collecting payments from the end-user for use of the aforementioned services, and paying or remitting monies to the local restaurant or food service provider, and the delivery courier.
11. It is acknowledged that Uber also offers a version of the Uber Eats Food Delivery Service whereby the food is ordered through Uber's online platform and then picked up by the end-user at the local restaurant or food service provider. This proposed class proceeding does not include situations where the food is picked up by the end-user at the local restaurant or food service provider.
12. Using the Uber Eats Food Delivery Service, whether on the website or via the mobile application(s), a Class Member could search for, or browse a list of restaurants or food service providers in a particular geographical location of the Class Member's choosing for delivery.
13. Upon selecting a particular restaurant or food service provider, the Class Member can browse the food that can be prepared by that restaurant or food service provider and sold as part of the Uber Eats Food Delivery Service (the "**Uber Restaurant Page(s)**"): **Uber Restaurant Page(s)**):
- a. A sample screenshot of an Uber Restaurant Page captured from Uber's website enclosed as **Exhibit A.**

- b. A sample screenshot of an Uber Restaurant Page captured from Uber's mobile application on the Apple platform is enclosed as **Exhibit B.**
14. On the Uber Restaurant Page, the following will be represented on the Uber Eats Food Delivery Service platform for each of the food offerings:
 - a. a name;
 - b. a short description;
 - c. a thumbnail image (if available); and
 - d. a price (the "**Uber Food Price**").
15. Upon a Class Member selecting a particular food offering, the information in the aforementioned paragraph (including the Uber Food Price) is displayed again to the Class Member, and the Class Member can select the quantity to add to the cart. The Class Member also sees a prominent button that says "Add X to order - \$Y" or "Add X to cart - \$Y" (the "**Uber Food Page(s)**"):
 - a. A sample screenshot of an Uber Food Page captured from Uber's website enclosed as **Exhibit C.** In this example, the Uber Food Price displayed is \$11.09.
 - b. A sample screenshot of an Uber Food Page captured from Uber's mobile application on the Apple platform is enclosed as **Exhibit D.** In this example, the Uber Food Price displayed is \$11.09.
16. On the Uber Food Pages, X represents the quantity selected and Y represents the Uber Food Price multiplied by the quantity selected.
17. For Class Members using Uber's website, after the Uber Food Page (i.e., after the Class Member presses the button to add the food to the cart), a shopping cart page is displayed to a Class Member showing the items that have been added to the

cart, and a prominent button stating “**Go to checkout**” (the “**Uber Cart Page**”). On the Uber Cart Page, a monetary figure is displayed consisting of the total value of the food items that are in the cart only (the “**Uber Cart Price**”). A sample screenshot of an Uber Cart Page captured from Uber’s website enclosed as **Exhibit E.** In this example, the Uber Cart Price displayed is \$11.09.

18. For Class Members using Uber’s mobile application, after the Uber Food Page, a button leading to a mobile version of the Uber Cart Page is displayed to the Class Member:

a. A sample screenshot of the page showing the button leading to the Uber Cart Page, captured from Uber’s mobile application on the Apple platform, is enclosed as **Exhibit F.**

b. A sample screenshot of the of the Uber Cart Page on Uber’s mobile application on the Apple platform is enclosed as **Exhibit G.** In this example, the Uber Cart Price displayed is \$11.09.

19. It is acknowledged that the Uber Delivery Fee (defined below), but not the Uber Service Fee (defined below), is displayed on the Uber Restaurant Page and/or when the Class Member browses the list of restaurants or food service providers. However, the Uber Delivery Fee and Uber Service Fee (defined below) are not included in the representations of the Uber Cart Price.

20. On the Uber Cart Page, the Class Member can choose to add more food by returning to the Uber Restaurant Page, and repeat the process above for adding more food to the cart, and then returning to the Uber Cart Page where it would reflect an updated Uber Cart Price. Alternatively, the Class Member can click the prominent checkout button on the Uber Cart Page.

21. Upon clicking the checkout button, the Class Member will be taken to a page (hereafter the “**Uber Checkout Page**”) to that displays the following information:

- a. The address the food will be delivered to;
- b. Any delivery instructions (i.e., leave at door, or another option);
- c. Delivery standard (two options):
 - i. Priority for an additional \$2.49 (in addition to the Service fee and Delivery fee below)
 - ii. Standard;
- d. Scheduling a future time for the delivery, at the end-user's option;
- e. Delivery fee, which typically ranges from \$0.49 to \$7.99. When the information box that is displayed is interacted with, it displays the following language: "*Based on distance and availability of delivery people*" (hereafter the "**Uber Delivery Fee**");
- f. Taxes and Other Fees, which is only broken down *after* the Class Member interacts with this line item:
 - i. Service fee: 10% of the entire order, before discounts and other fees (\$2 minimum, and \$4 maximum) (hereafter the "**Uber Service Fee**");
 - ii. Taxes: consisting of the sales tax in the respective Canadian jurisdictions.

22. A sample screenshot of an Uber Checkout Page captured from Uber's website is enclosed as **Exhibit H.** In this example, the Uber Service Fee displayed is \$2.00, and the Uber Delivery Fee is \$0.49. The information box titled "What's Included" appears because the mouse cursor is hovered over the (i) icon.

23. For some customers, primarily those that use the same account for both the Uber Eats Food Delivery Service and Uber's ride-sharing service, the Uber Checkout Page would allow customers to choose a method of payment, either **Personal** or **Business**.

a. A sample screenshot of an Uber Checkout Page captured from Uber's website is enclosed as **Exhibit I.**

b. A sample screenshot of an Uber Checkout Page captured from Uber's mobile application on the Apple platform is enclosed as **Exhibit J.**

24. On the Uber Checkout Page, the Class Member can also select the gratuities to pay to the delivery courier with the following options: 10%, 15%, 20%, 25% or other.

25. The Uber Delivery Fee and Uber Service Fee above (collectively the "**Uber Additional Charge(s)**") are not included in the Uber Cart Price or the Uber Food Price(s), and thereafter added at the Uber Checkout Page. For greater certainty, the additional optional charge of \$2.49 for a priority delivery is not part of the claim for recovery of Uber Additional Charges.

26. The Uber Additional Charges are not charges or fees that are imposed by or under an Act of Parliament or the legislature of a province. The Uber Food Price and/or Uber Cart Price is not attainable due to the Uber Additional Charges.

27. For users of the Uber Eats Food Delivery Service in Quebec, Uber displays both the Uber Delivery Fee and Uber Service Fee at an earlier stage than the Uber Checkout Page. These Uber Additional Charges are displayed in smaller text below the restaurant name on the Uber Restaurant Page. A sample screenshot of an Uber Restaurant Page captured from Uber's website using a Quebec delivery address is enclosed as **Exhibit K.** For greater certainty, the Plaintiff is **not**

admitting that the display of the Uber Delivery Fee and Uber Service Fee in this manner complies with the *Competition Act*. Two class actions, unrelated to the present case, are already pending in the Superior Court of Québec regarding the Uber Eats Food Delivery Service in Québec (*Leung c. Uber Canada Inc.*, File Numbers : 500-06-001111-208; 500-06-001155-213).

28. The Uber Defendants' relationship with the Class Members are governed under the laws of Ontario and those Class Members are "consumers" within the meaning of the *Consumer Protection Act, 2002*, S.O. 2002, c. 30, Sched. A.

29. This proposed class proceeding against Uber only includes the individuals that used the Uber Eats Food Delivery Service primarily for a personal, family, or household purposes and, in particular, includes but is not limited to users that paid using a method of payment other than one marked as BUSINESS. Specifically, this proposed class proceeding excludes individuals that that used the Uber Eats Food Delivery Service and paid using a method of payment marked BUSINESS.

iii. Uber's Contravention of the Competition Act

30. The Plaintiff seeks, on his own behalf and on behalf of the Class, a declaration that

- a. Uber made a representation of price(s) for use of its Uber Eats Food Delivery Service, which was not attainable due to the Uber Additional Charge(s) imposed by Uber, and constitutes a false or misleading representation in contravention of section 52 of the *Competition Act*;
- b. Uber was only entitled to charge the Uber Cart Price (i.e., the price without the Uber Additional Charge(s)) and the Plaintiff and all Class Members were entitled to pay the Uber Cart Price only;
- c. If Uber had complied with section 52 of the *Competition Act*, the Class Members would have paid the Uber Cart Price, plus applicable taxes and any optional charges only;

- d. The Class members, having been obliged to pay the Uber Additional Charge(s), when they were entitled to pay the Uber Cart Price only, suffered loss and/or damage equivalent to the Uber Additional Charge(s); and
 - e. Further or alternatively, Uber's false or misleading representation caused the Class Members to acquire less value than they expected to acquire. Specifically, the Class Members would have expected that the Cart Price would have fully covered their use of the Uber Eats Food Delivery Service.
31. The Plaintiff asserts that he, and the Class, have suffered damages as a result of Uber's breach of section 52 of the *Competition Act* and as a result seek damages pursuant to section 36 of the *Competition Act*, specifically:
- a. monetary equivalent to the Uber Additional Charge(s) charged by Uber, or caused to be charged by Uber, to the Plaintiff and the Class Members; and
 - b. the costs of investigation and prosecuting this action.

D. Claims against the Fantuan Defendants

i. Relationship between the Fantuan Defendants

32. The Defendant, JUST ORDER ENTERPRISES CORP., is a company formed under the British Columbia *Business Corporations Act*, with a registered office at 700 West Georgia Street, Suite 2200, P.O. Box. 10325, Vancouver BC, V7Y 1K8.
33. The Defendant, FAN TUAN HOLDING LTD., is a company formed under the British Columbia *Business Corporations Act*, with a registered office at 700 West Georgia Street, Suite 2200, P.O. Box. 10325, Vancouver BC, V7Y 1K8.
34. The Defendant, FANTUAN TECHNOLOGY LTD., is a company formed under the British Columbia *Business Corporations Act*, with a registered office at 700 West

Georgia Street, Suite 2200, P.O. Box. 10325 Vancouver BC, V7Y 1K8.

35. JUST ORDER ENTERPRISES CORP., FAN TUAN HOLDING LTD., and FANTUAN TECHNOLOGY LTD. (collectively “**Fantuan**”) provide, in Canada, the Fantuan Food Delivery Service defined further below.

ii. *The Fantuan Defendants’ Fantuan Food Delivery Service*

36. At all material times, Fantuan supplied, or offered to supply, food delivery services in Canada that is primarily for personal, family, or household purposes, via various Internet platforms including websites such as <http://www.fantuan.ca>, <http://wechat.fantuan.ca>, or <http://fantuanorder.com> and/or mobile applications on the Apple and Android operating systems (collectively the “**Fantuan Food Delivery Service**”), offering functionalities, including but not limited to:

- a. An online platform for restaurants or food service providers to list their food offerings;
- b. A service to assist the restaurants or food service providers to price their food offerings;
- c. A service for end-users to place a customized order and obtain delivery via the online platform of food that is prepared by a local restaurant or food service provider that uses the online platform;
- d. Enabling correspondence between local restaurants or food service providers and the end-user, and between the delivery courier and the end-user;
- e. 24/7 support to both the local restaurant or food service provider, end-user, and/or delivery courier; and
- f. Collecting payments from the end-user for use of the aforementioned

services, and paying or remitting monies to the local restaurant or food service provider, and the delivery courier.

37. It is acknowledged that Fantuan also offers a version of the Fantuan Food Delivery Service whereby the food is ordered through Fantuan's platform and then picked up by the end-user at the local restaurant or food service provider. This proposed class proceeding does not include situations where the food is picked up by the end-user at the local restaurant or food service provider.

38. Using the Fantuan Food Delivery Service, whether on the website or via the mobile application(s), a Class Member could search for, or browse a list of restaurants or food service providers in a particular geographical location of the Class Member's choosing for delivery.

39. Upon selecting a particular restaurant or food service provider, the Class Member can browse the food that can be prepared by that restaurant or food service provider and sold as part of the Fantuan Food Delivery Service (the "**Fantuan Restaurant Page(s)**").

a. A sample screenshot of a Fantuan Restaurant Page captured from Fantuan's website enclosed as **Exhibit L.**

b. A sample screenshot of a Fantuan Restaurant Page captured from Fantuan's mobile application on the Apple platform is enclosed as **Exhibit M.**

40. On the Fantuan Restaurant Page, the following will be represented on the Fantuan Food Delivery Service platform for each of the food offerings:

a. a name;

b. a thumbnail image (if available); and

c. a price (the "**Fantuan Food Price**").

41. Upon a Class Member selecting a particular food offering, the information in the aforementioned paragraph (including the Fantuan Food Price) is displayed again to the Class Member along with a further description of the food, and the Class Member can select the quantity to add to the cart. The Class Member also sees a prominent button that says “Add to cart \$Y” (the “**Fantuan Food Page(s)**”).

a. A sample screenshot from Fantuan’s website enclosed as **Exhibit N.**

b. A sample screenshot of the page from Fantuan’s mobile application on the Apple platform, is enclosed as **Exhibit O.**

42. On the Fantuan Food Pages, “Y” represents the Fantuan Food Price multiplied by the quantity selected.

43. After the Fantuan Food Page (i.e., after the Class Member presses the button to add the food to the cart), a shopping cart widget is displayed to the Class Member with a prominent button stating “**\$Z Check Out**”. “Z” represents the total value of the items that are in the cart (the “**Fantuan Cart Price**”).

a. A sample screenshot from Fantuan’s website enclosed as **Exhibit P.**

b. A sample screenshot of the page from Fantuan’s mobile application on the Apple platform, is enclosed as **Exhibit Q.**

44. It is acknowledged that the Fantuan Delivery Fee (defined below), but not the Fantuan Service Fee, is displayed on the Fantuan Restaurant Page and/or when the Class Member browses the list of restaurants or food service providers. However, the Fantuan Delivery Fee and Fantuan Service Fee (defined below) are not included in the representations of the Fantuan Cart Price.

45. After adding an item to the cart, the Class Member can choose to add more food

by returning to the Fantuan Restaurant Page, and repeat the process above for adding more food to the cart, and then clicking the “**Check Out**” button. Alternatively, if the Class Member has nothing further to add, the Class Member can click the “**Check Out**” button.

46. Upon clicking the prominent button stating “**Check Out**” the Class Member will be taken to a page (hereafter the “**Fantuan Checkout Page**”) that displays the following information:

- a. The address the food will be delivered to;
- b. Delivery options (i.e., leave at door, or another option);
- c. Scheduling a future time for the delivery, at the end-user’s option;
- d. Choosing a method of payment;
- e. Delivery fee, and when a user interacts with this line item an information box is displayed which states the following language: *“The Delivery Fee quoted on the merchant interface and Restaurant Page is only an estimation. The actual delivery fee is adjusted according to the delivery distance, convenience, delivery time, order period, and the number of available drivers. The final amount of delivery fee would be clearly listed on the order receipt.”* (hereafter the “**Fantuan Delivery Fee**”);
- f. Taxes & Fees, which is only broken down *after* the Class Member interacts with this line item:
 - i. Service Fee, without any further details or description (hereafter the “**Fantuan Service Fee**”);

- ii. Taxes: consisting of the sales tax in the respective Canadian jurisdictions.

47. On the Fantuan Checkout Page, the Class Member can also select the gratuities to pay to the delivery courier.

48. A sample screenshot of an Fantuan Checkout Page captured from Fantuan's website is enclosed as **Exhibit R.** In this example, the Fantuan Service Fee displayed is \$3.50, and the Fantuan Delivery Fee is \$2.99, with a corresponding discount.

49. A sample screenshot of an Fantuan Checkout Page captured from Fantuan's website is enclosed as **Exhibit S.** In this example, the Fantuan Service Fee displayed is \$3.50, and the Fantuan Delivery Fee is \$2.99, with a corresponding discount.

50. The Fantuan Delivery Fee and Fantuan Service Fee above (collectively the "**Fantuan Additional Charge(s)**") are not included in the Fantuan Cart Price or the Fantuan Food Price, and thereafter added at the Fantuan Checkout Page.

51. The Fantuan Additional Charges are not charges or fees that are imposed by or under an Act of Parliament or the legislature of a province.

52. The Fantuan Food Price and/or Fantuan Cart Price is not attainable due to the Fantuan Additional Charges.

53. The Fantuan Defendants' relationship with Class Members are governed under the laws of British Columbia, where the Fantuan Defendants are headquartered, and those Class Members are "consumers" within the meaning of the *Business Practices and Consumer Protection Act*, SBC 2004, c 2. The Fantuan Defendants' relationship with Class Members residing in Quebec are also governed by the laws of Quebec and those Class Members are "consumers" under the *Consumer Protection Act*, CQLR c. P-40.1.

iii. Fantuan's Contravention of the Competition Act

54. The Plaintiff seeks, on his own behalf and on behalf of the Class, a declaration that

- a. Fantuan made a representation of price(s) for use of its Fantuan Food Delivery Service, which was not attainable due to the Fantuan Additional Charge(s) imposed by Fantuan, and constitutes a false or misleading representation in contravention of section 52 of the *Competition Act*;
- b. Fantuan was only entitled to charge the Fantuan Cart Price (i.e., the price without the Fantuan Additional Charge(s)) and the Class Members were entitled to pay the Fantuan Cart Price only;
- c. If Fantuan had complied with section 52 of the *Competition Act*, the Class Members would have paid the Fantuan Cart Price, plus applicable taxes and any optional charges only;
- d. The Class Members, having been obliged to pay the Fantuan Additional Charge(s), when they were entitled to pay the Fantuan Cart Price only, suffered loss and/or damage equivalent to the Fantuan Additional Charge(s); and
- e. Further or alternatively, Fantuan's false or misleading representation caused the Class Members to acquire less value than they expected to acquire. Specifically, the Class Members would have expected that the Cart Price would have fully covered their use of the Fantuan Food Delivery Service.

55. The Plaintiff asserts that the Class has suffered damages as a result of Fantuan's breach of section 52 of the *Competition Act* and as a result seek damages pursuant to section 36 of the *Competition Act*, specifically:

- a. monetary equivalent to the Fantuan Additional Charge(s) charged by Fantuan, or caused to be charged by Fantuan, to the Plaintiff and the Class Members; and
- b. the costs of investigation and prosecuting this action.

E. The Plaintiff and the Class Members for this Class Action

56. The Plaintiff, Arthur Lin, resides in the province of British Columbia, and this Action is brought on behalf of a class consisting of the Plaintiff and:

All individuals who, on or after March 17, 2021, used the Uber Eats Food Delivery Service and are residing in Canada (other than in the province of Quebec) or used the Fantuan Food Delivery Service and are residing in Canada (including the province of Quebec) to acquire food in Canada and incurred additional charges including a delivery fee and/or service fee, except an Excluded Individual.

An **Excluded Individual** means:

- The Defendants' officers, directors, and employees, and the lawyers for the Plaintiff and the Defendants, and the judge(s) that have presided over this action; or
- Persons that have paid for the Uber Eats Food Delivery Service or the Fantuan Food Delivery Service with a payment method marked as "Business" on the respective platforms.

(collectively the "**Class**" or "**Class Member(s)**").

57. It is estimated that the Class consists of at least hundreds of thousands of Canadian residents. The Class Members' circumstances are similar or identical to the Plaintiff's circumstances.

58. The Uber Eats Food Delivery Service and Fantuan Food Delivery Service are substantially similar, including the manner that they display their prices and charging additional fees at the checkout pages.

F. The Plaintiff's Circumstances

59. The Plaintiff is an individual residing in the province of British Columbia.
60. The Plaintiff has used the Uber Eats Food Delivery Service on various occasions for personal, family, or household purposes. The two transactions below are examples of his purchases of the Uber Eats Food Delivery Service since June 23, 2022, and the Plaintiff experienced a checkout procedure that is substantially similar to that described in paragraphs 12-26 above.
61. On or about August 21, 2022, the Plaintiff used the Uber Eats Food Delivery Service to order food for delivery, totaling \$33.39, which included an Uber Service Fee of \$2.50. The Plaintiff's receipt showed an Uber Delivery Fee of \$0.99, for which an equivalent discount of \$0.99 was applied. On this occasion, the Plaintiff paid for the Uber Eats Food Delivery Service using his Uber credits.
62. On or about December 30, 2022, the Plaintiff used the Uber Eats Food Delivery Service to order food for delivery, totaling \$105.49, which included an Uber Service Fee of \$4.00 and an Uber Delivery Fee of \$0.99. On this occasion, the Plaintiff paid for the Uber Eats Food Delivery Service using his personal credit card.

G. Jurisdiction and Location of Trial

63. This Action concerns breaches of the *Competition Act* and section 36(3) of the *Competition Act* provides that the Federal Court is a court of competent jurisdiction.
64. The Class Members are residents in Canada and the *Competition Act* applies to transactions involving those individuals.
65. The Plaintiff proposes that this action be tried at Montreal, Québec.

Date: March 17, 2023

Simon Lin

Simon Lin
Evolink Law Group
4388 Still Creek Drive, Suite 237
Burnaby, British Columbia, V5C 6C6
Tel: 604-620-2666
Email: simonlin@evolinklaw.com

Champlain avocats

Me Jérémie John Martin
Me Sébastien A. Paquette
Champlain Avocats
1434 Sainte-Catherine Street W, Suite 200
Montreal, Québec, H3G 1R4
Tel: 514-944-7344
Email: jmartin@champlainavocats.com
Email: spaquette@champlainavocats.com

Exhibit A.

Exhibit B.



Denny's (Davie St)

★ 4.6 (200+ ratings) • American • \$ • 📍

Open until 10:29 PM

Tap for hours, info and more



Delivery
15–30 min

Pick-up
10–20 min • 19.3 km

Group order

Main Menu - No Liquor
7:00 AM – 11:59 AM

Main Menu
12:00 PM – 10:29 PM

Picked for you

BUILD YOUR OWN GRAND SLAM

\$14.29

Pick any four items and make it your own. (370-1100 Cals)



ALL-AMERICAN SLAM

\$16.59

Three scrambled eggs with cheddar cheese, two bacon strips, two sausage links, hash browns, and a choice of bread. (...)



LUMBERJACK SLAM

\$19.29



Exhibit C.

← Back to Denny's (Davie St)



MOZZARELLA CHEESE STICKS

\$11.09

Golden-fried mozzarella sticks with a side of tomato sauce. (630 Cals, Serves 2)

Special Instructions

Add a note

1

Add 1 to order • \$11.09

Uber Eats



Get Help

Buy gift cards

Add your restaurant

Sign up to deliver

Create a business account

Restaurants near me

View all cities

View all countries

Pickup near me

About Uber Eats

English

Exhibit D.



MOZZARELLA CHEESE STICKS

\$11.09

Golden-fried mozzarella sticks with a side of tomato sauce. (630 Cals, Serves 2)

Special instructions

Add a note

You may be charged for extras.

— 1 +

Frequently bought together

SAUSAGE LINKS (4 pcs)



Add 1 to cart • \$11.09

Exhibit E.

← Back to Denny's (Davie St)



MOZZARELLA CHEESE STICKS

\$11.09

Golden-fried mozzarella sticks with a side of tomato sauce. (630 Cals, Serves 2)

Special Instructions

Add a note

1

Add 1 to order • \$11.09

Denny's (Davie St)

Deliver to Vancouver Art Gallery Annex

1 item

Subtotal: \$11.09

MOZZARELLA CHEESE STICKS



1

\$11.09

Subtotal

\$11.09

Uber Eats



Get Help

Buy gift cards

Add your restaurant

Sign up to deliver

Create a business account

Restaurants near me

View all cities

View all countries

Pickup near me

About Uber Eats

English

Privacy Policy

Terms

Pricing

Do not sell or share my personal information

© 2023 Uber Technologies Inc.

Go to checkout

Add items

Exhibit F.



Denny's (Davie St)



- DRINKS
- APPETIZERS**
- SALADS
- SANDWICHES

chocolate chips, tossed with powdered sugar and served with cream cheese icing. (760-1120...



BACON CHEDDAR TOTS (10 pcs)

\$8.59

Ten of Denny's house-made bacon cheddar tots. (360 Cals, Serves 2)



MOZZARELLA CHEESE STICKS

\$11.09

Golden-fried mozzarella sticks with a side of tomato sauce. (630 Cals, Serves 2)



Popular

CHICKEN TENDERS

\$14.89

Premium golden-fried chicken tenderloins with choice of dipping sauce. (690-890 Cals, Serves 2)



[View cart \(1\)](#)

\$9.59

Wavy-cut fries covered with squeaky cheese curds and



Exhibit G.



Denny's (Davie St)

1 item

Subtotal: \$11.09

MOZZARELLA CHEESE STICKS



1



\$11.09



Add promo code



Subtotal

\$11.09

Go to checkout

Exhibit H.



Denny's (Davie St)

Place order

Delivery details

Delivery Pickup

Vancouver Art Gallery Annex
750 Hornby St, Vancouver, V6Z 2H7

Edit

Meet at door
[Add delivery instructions](#)

Edit

Delivery estimate

Priority +\$2.49
15-30 min(s) · Delivered directly to you

Standard
20-35 min(s)

Schedule
Select a time

Payment

Uber Cash: \$0.00 Edit
 + American Express

Add promo code Add

Order summary

+ Add items

1 item

1 MOZZARELLA CHEESE STICKS \$11.09

Order total

Spend \$15 for a \$0 Delivery Fee

Subtotal	\$11.09
Delivery fee	\$0.49
Taxes & Other Fees	\$2.93

What's included?

Service fee	\$2.00	10% of your order before discounts and other fees (\$2 min, \$4 max)	\$2.90
Bag Fee (Tax Incl.)	\$0.25		
Taxes	\$0.68		\$17.41

By placing your order, you agree to take full responsibility for it once it's delivered. Orders containing alcohol or other restricted items may not be eligible for leave at door and will be returned to the shop if you are not available.

Exhibit I.



Denny's (Davie St)

Delivery details

Delivery Pickup

Vancouver Art Gallery Annex
750 Hornby St, Vancouver, V6Z 2H7

Edit

Meet outside
[Add delivery instructions](#)

Edit

Delivery estimate

Priority
15-30 min(s) • Delivered directly to you

+\$2.49

Standard
20-35 min(s)

Schedule
[Select a time](#)

Payment

Personal
Uber Cash: \$0.00 + Visa -

Edit

Add promo code

Add

Order summary

+ Add items

1 item

1 **MOZZARELLA CHEESE STICKS**

\$11.09

Place order

Order total

Add \$3.91 to save with Uber One

Subtotal \$11.09

Delivery fee ⓘ \$0.49

Taxes & Other Fees ⓘ \$2.93

What's included? \$2.90

Service fee \$2.00
10% of your order before discounts and other fees (\$2 min, \$4 max)

Bag Fee (Tax Incl.) \$0.25

Taxes \$0.68 **\$17.41**

By placing your order, you agree to take full responsibility for it once it's delivered. Orders containing alcohol or other restricted items may not be eligible for leave at door and will be returned to the shop if you are not available.

Exhibit J.



Checkout



Select a time

Order summary

+ Add items



Denny's (Davie St)

1 item



Add promo code



Add \$3.91 to save with Uber One

Subtotal	\$11.09
Delivery fee 	\$0.49
Taxes & Other Fees 	\$2.93
Total	\$14.51



Personal

Apple Pay



Give \$2.00 to restaurant

Next

Exhibit K.



Thai Indochine (Saint-Viateur)

★ 4.5 (41 ratings) · Thai · \$\$ · [More info](#)

\$1.49 Delivery Fee + \$2-4 Service Fee

Group order

Delivery
45-60 min · \$1.49

Pick-up
15-25 min · 4 km

Picked for you

Rouleaux de printemps (2 mcx) / Spring r

Entrée / Appetizer

Nouille et Riz / Noodle and Rice

Oyakodon

Poké bol / Poke bowl

Boisson / Drink

Épiceries pour le Bec Sucré / Groceries fo

Extra

Picked for you

Oyakodon

\$17.95

Sauté de oignon, d'œuf avec la bouillon de dashi et servi avec un bol de riz. / Sautéed onion, egg with dashi broth, and served with a bowl of rice.



Curry Rouge / Red Curry

\$17.95

Sauté curry rouge et lait de coco avec zucchini, champignon, poivron rouge et servi avec un bol de riz. / Stir-fried red curry and coconut milk with zucchini, mushroom, red pepper, and served with a bowl of rice.



Général Tao au Poulet / General Tao with Chicken

\$18.95

Sauté de poulet pané, ananas, oignon, poivron rouge et servi avec un bol de riz. / Sautéed breaded chicken, pineapple, onion, red pepper, and served with a bowl of rice.



Pad Thai

\$16.95

Sauté nouille de riz, carotte, fève de soya, oeuf avec sauce au tamarin et sauce de poisson / Stir-fried rice noodle, carrot, bean sprout, egg with tamarin sauce and fish sauce

2 bols de poké au poulet Général Tao / 2 bowls of Chicken General Tao poke

\$30.95

Vous souhaitez manger ensemble? Deux bols identiques pourraient satisfaire vos besoins

Rouleaux de printemps (2 mcx) / Spring rolls (2 pcs)

Indochine printanière au saumon / Salmon Spring Indochine

\$8.50

Feuille de riz, salade mixte, riz de sushi, saumon, poivron rouge, concombre, goberge, mangue, sésame servi avec sauce wafu

Indochine printanière au thon / Tuna Spring Indochine

\$8.95

Feuille de riz, salade mixte, riz de sushi, thon, poivron rouge, concombre, goberge, mangue, sésame servi avec sauce wafu.

Indochine printanière au thon et saumon / Tuna and Salmon Spring Indochine

\$9.95

Feuille de riz, salade mixte, riz de sushi, thon, saumon, poivron rouge, concombre, goberge, mangue, sésame servi avec sauce wafu

Indochine printanière aux crevettes / Shrimp Spring Indochine

\$7.95

Feuille de riz, salade mixte, riz de sushi, crevettes, poivron rouge, concombre, goberge, mangue, sésame servi avec sauce wafu

Exhibit L.



Sushi Bang | Special Offers

★ 4.3 [More Info>](#)

Delivery 54min | \$2.99 **PickUp** 20min

- 👉 20% off entire store
- 📄 Delivery: \$2.99 off over \$15
- 📄 Use the coupon \$20-\$5 when place an order [4 deals>](#)

Reviews & Ratings

[See All Reviews](#)

★ 4.3 20+ ratings

- Carli3
22/08/31
★★★★★ Excellent
Worth the money always great taste
- Anonymity User
22/07/29
★★★★★ Excellent
- 22/06/28
★★★★★ Excellent
Fresh fish and good sushi rice

☰ **Aburi Sushi** Special Roll Bento Box Sashimi Cream Cheese Roll Or Cone Roll Or Cone Spicy Roll Or Cone >

Aburi Sushi

- | | | |
|--|---|---|
| Aburi Tuna
20% Off 10+ sold monthly
\$3.25 \$4.06 | Aburi Salmon
20% Off
\$3.25 \$4.06 | Aburi White Tuna
20% Off 10 sold monthly
\$3.25 \$4.06 |
| Aburi Salmon Belly
20% Off 10+ sold monthly
\$3.25 \$4.06 | Aburi Saba
20% Off 10 sold monthly
\$3.25 \$4.06 | Aburi Hotaki
20% Off 10+ sold monthly
\$3.95 \$4.94 |
| Aburi Toro | | |

Exhibit M.

15:37

App Store

Shi Bang | Special Offer



★ 4.3 Japanese

Order

Reviews³⁷¹

Merchant

Delivery

54min | \$2.99

Pickup

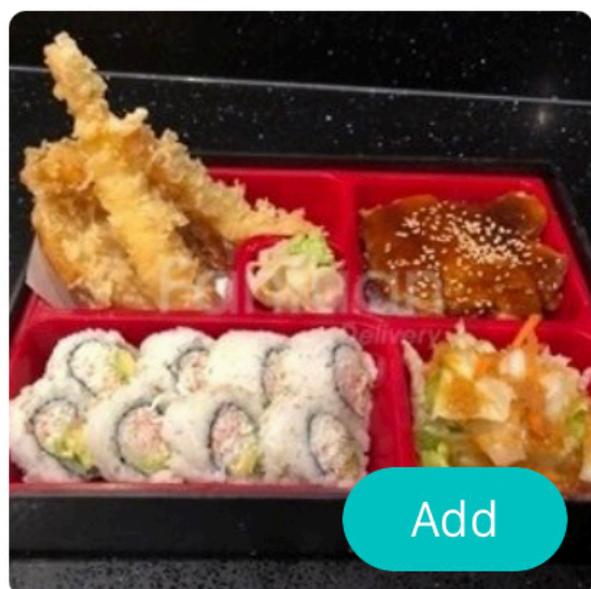
20min

🏷️ 20% off entire store

📦 Delivery: \$2.99 off over \$15

[3 Deals >](#)

Picked for you



Add

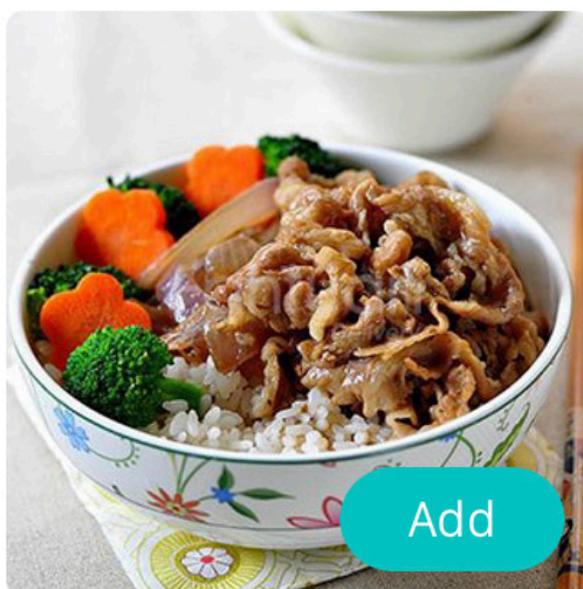
Chicken Box

\$15.95 ~~\$19.94~~

20% Off

\$12.96

After deals



Add

Beef Box

\$15.95 ~~\$19.94~~

20% Off

\$12.96

After deals



Salmon Avocado

\$5.95 ~~\$7.44~~

20% Off

Aburi Sushi



Aburi Tuna

12 recommended

10+ sold monthly

20% Off

\$3.25 ~~\$4.06~~

Add

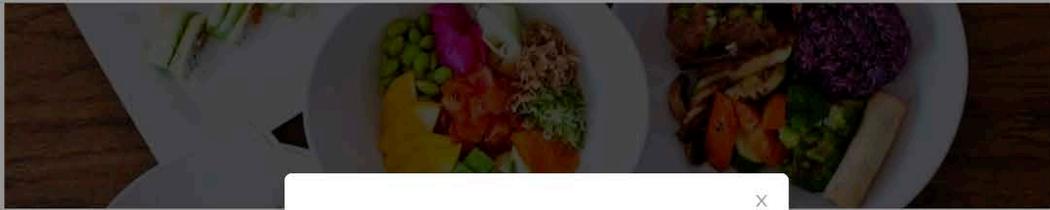


Aburi Salmon

22 recommended

20% Off

Exhibit N.



Sushi Bang | Special Of

★ 4.3 [More Info](#)

Delivery 54min | \$2.99 **PickUp** 20min

- 20% off entire store.
- Delivery: \$2.99 off over \$15
- Use the coupon \$20-\$5 when place

Reviews & Ratings

★ 4.3 20+ ratings

Carli3
22/08/31
★★★★★ Excellent
Worth the money always great taste

Aburi Sushi Special Roll

Aburi Sushi

- Aburi Tuna**
20% Off 10+ sold monthly
\$3.25 \$4.06
- Aburi Salmon Belly**
20% Off 10+ sold monthly
\$3.25 \$4.06



Aburi Tuna

20% Off 10+ sold monthly

Brown Rice
Choose up to 1

Change to Brown Rice
\$0.40 ~~\$0.50~~

10 **Add to Cart** \$32.50 ~~\$40.00~~

- Aburi Salmon**
20% Off
\$3.25 \$4.06
- Aburi Saba**
20% Off 10 sold monthly
\$3.25 \$4.06

- Aburi White Tuna**
20% Off 10 sold monthly
\$3.25 \$4.06
- Aburi Hotaki**
20% Off 10+ sold monthly
\$3.95 \$4.94

[See All Reviews](#)

22/06/28

★★★★ Excellent

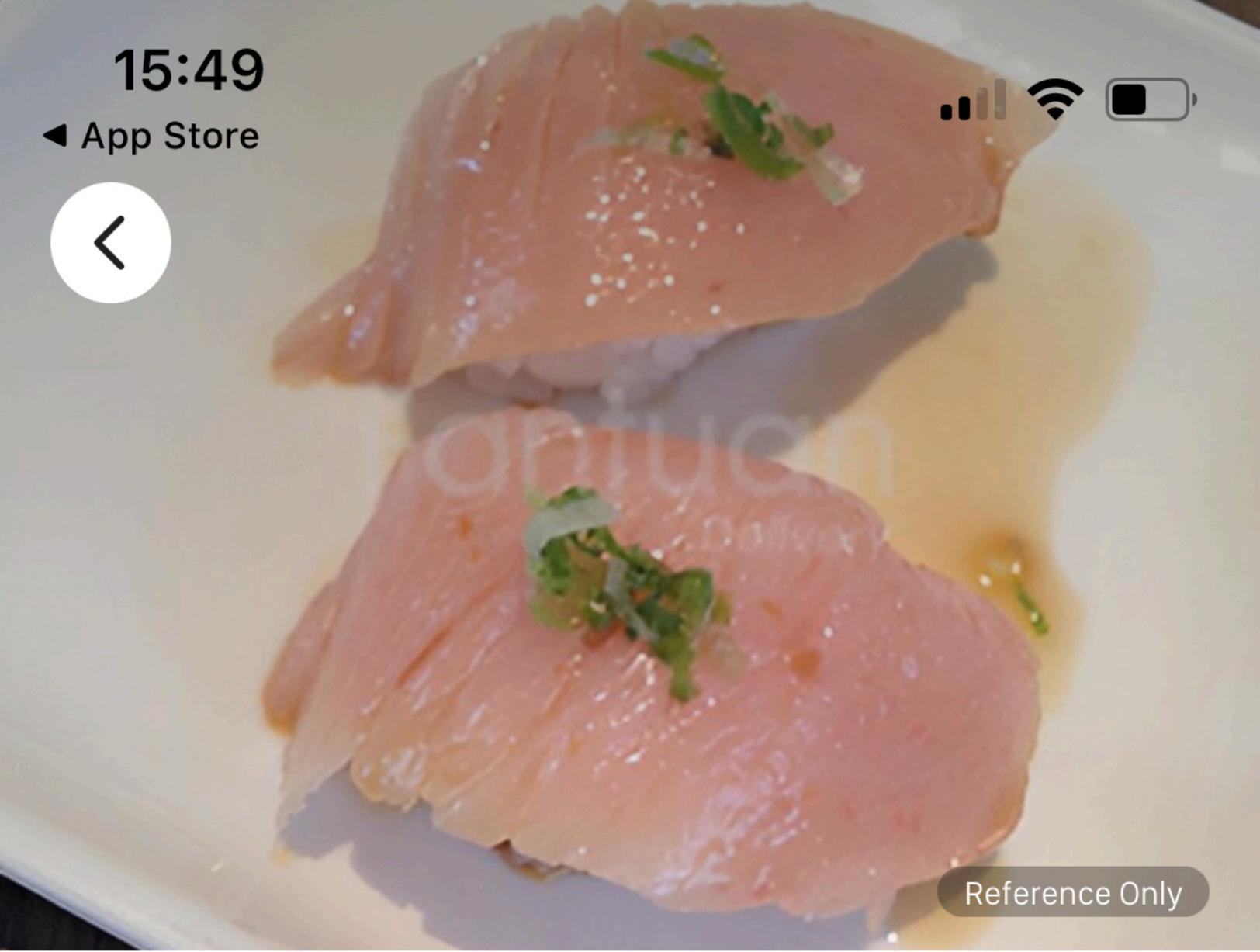
fish and good sushi rice

Or Cone Spicy Roll Or Con

Exhibit O.

15:49

App Store



Reference Only

Aburi Tuna

12 recommended

10+ sold monthly

20% Off

Brown Rice

Choose up to 1

Change to Brown Rice

\$0.40 ~~\$0.50~~



Frequently Bought Together



Miso

10+ sold monthly

20% Off

Amount



10



Add to cart

\$32.50

~~\$40.60~~

Exhibit P.



Sushi Bang | Special Offers

★ 4.3 [More Info](#)

Delivery 54min | \$2.99 **PickUp** 20min

20% off entire store

Delivery: \$2.99 off over \$15

Use the coupon \$20-\$5 when place an order [4 deals](#)

Reviews & Ratings

[See All Reviews](#)

★ 4.3 20+ ratings

- Carli3** 22/08/31
★★★★★ Excellent
Worth the money always great taste
- Anonymity User** 22/07/29
★★★★★ Excellent
- 22/06/28
★★★★★ Excellent
Fresh fish and good sushi rice

Aburi Sushi Special Roll Bento Box Sashimi Cream Cheese Roll Or Cone Roll Or Cone Spicy Roll Or Cone

Aburi Sushi

- Aburi Tuna** 20% Off 10+ sold monthly
\$3.25 \$4.06
- Aburi Salmon** 20% Off
\$3.25 \$4.06
- Aburi White Tuna** 20% Off 10 sold monthly
\$3.25 \$4.06
- Aburi Salmon Belly** 20% Off 10+ sold monthly
\$3.25 \$4.06
- Aburi Saba** 20% Off 10 sold monthly
\$3.25 \$4.06
- Aburi Hotaki** 20% Off 10+ sold monthly
\$3.95 \$4.94
- Aburi Toro**

Cart Clear All

- Aburi Tuna \$3.25 \$4.06 - 10 +

Save \$11.11

\$29.49 \$40.60 **Check Out**

Exhibit Q.



Search for a dish



Order

Reviews³⁷¹

Merchant

Aburi Sushi

Special Roll

Bento Box



Picked for you



Add

Chicken Box

\$15.95 ~~\$19.94~~

20% Off



Add

Beef Box

\$15.95 ~~\$19.94~~

20% Off



Salmon Avocado

\$5.95 ~~\$7.44~~

20% Off

Aburi Sushi



Aburi Tuna

12 recommended

10+ sold monthly

20% Off

\$3.25 ~~\$4.06~~

Add ¹⁰

2 people bought together

Save \$11.11



\$29.49 ~~\$40.60~~
After Coupon \$24.49

Checkout

Exhibit R.

Delivery Pickup

Delivery Address
 750 Hornby Street, Vancouver, BC V6Z 2H7, Canada
 Test 7785552222

ASAP Arrive by 17:11

Delivery Options Leave at door

Payment Online Payment

Sushi Bang

Aburi Tuna x10 \$4.06 \$:

Request Utensils Require

Notes to Merchant Add Notes

Subtotal	\$32.48
Spend & Save Discount	-\$2.99
discount price	\$29.49
Coupon/Code	select the coupon to...
Delivery Fee	\$2.99
Taxes&Fees	\$8.45

Taxes&Fees

Taxes: \$1.95
 All taxes will be paid to the government.

Service Fee: \$3.50
 Orders with Fantuan service include a Service Fee.This fee equals to 0.1% of the subtotal,There's a \$1.5 minimum,it's never more than \$3.5.

Bag Fee: \$3.00
 For the betterment of our enviroment, a package fee will be charged in accordance with government regulations, fees will be transferred to the merchant.

20% \$9.17

\$45.86

about promotions

You are saving \$11.11, you still have a coupon available to save \$5.00

Place Order \$45.86

Exhibit S.



Confirm Order

Payment Method

Select Payment Method >

 Sushi Bang



Aburi Tuna >

x10

\$4.06

+ Add Items

 Coupon/code select the coupon to sav... >

Subtotal \$40.60

Delivery Fee (?) \$2.99

Bag Fee (?) \$3.00

Taxes&Fees (?) \$5.45

 Entire Store Discount -\$8.12

 Spend & Save Discount -\$2.99

Questions about promotions (?)

Total \$40.93

You are saving **\$11.11**, you still have a coupon available to save \$5.00 >

Place Order

\$40.93